

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon. Robert B. Kugler
	:	
v.	:	Crim. No. 17-532 (RBK)
	:	
FRANK NUCERA, JR.	:	
	:	

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GOVERNMENT'S OPPOSITION TO  
DEFENDANT FRANK NUCERA, JR.'S OMNIBUS PRETRIAL MOTION

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Craig Carpenito  
United States Attorney  
Federal Building & U.S. Courthouse  
402 East State Street, Room 430  
Trenton, NJ 08608  
(609) 989-2190

On the Brief:

Molly S. Lorber  
R. Joseph Gribko  
Assistant U.S. Attorneys

TABLE OF CONTENTS

	<u>Page(s)</u>
TABLE OF CONTENTS .....	i
TABLE OF AUTHORITIES .....	ii
PRELIMINARY STATEMENT .....	1
STATEMENT OF FACTS .....	2
ARGUMENT.....	25
I. Deletion of audio recordings by a witness who was not acting on behalf of the government, before any interaction with the government, is not grounds for dismissal of the Indictment. ....	25
A. BTPD Sgt. Nathan Roohr’s deletion of personal audio recordings is not conduct chargeable to the federal government.....	33
B. Nucera cannot establish that the deleted recordings are material.....	38
C. Nucera cannot establish that the FBI, or even Sgt. Roohr, acted in bad faith. ....	39
D. Nucera’s speculation that the FBI knew Sgt. Roohr was making recordings prior to the initiation of any formal investigation does not entitle him to an evidentiary hearing.....	41
II. There Is No Need For A <i>Starks</i> Hearing. ....	43
III. Bifucation of Trial Would be Improper and Impracticable.....	49
IV. The Government Will Comply With F.R.E. 404(b). ....	52
V. The Government Has Complied With Its <i>Giglio</i> Obligations.....	53
VI. The Governemnt Has Complied With Its <i>Brady</i> Obligations.....	54
VII.The Governemnt Has Instructed The Agents To Preserve Their Rough Notes. ....	55
VIII. The Government Is Aware Of Its Jencks Disclosure Obligations. ....	56
IX. Defendant Should Not Be Permitted To File Additional Motions Based On Discovery Materials Already Received.....	56
X. Defendant Should Be Ordered To Provide Reciprocal Discovery To The Government.....	57
CONCLUSION .....	58

**TABLE OF AUTHORITIES**

Page(s)

**Cases**

<i>Arizona v. Youngblood</i> , 488 U.S. 51 (1988) .....	28, 41
<i>Bourjaily v. United States</i> , 483 U.S. 171 (1987).....	46
<i>Brady v. Maryland</i> , 373 U.S. 83 (1963).....	26, 53
<i>California v. Trombetta</i> , 467 U.S. 479 (1984).....	27, 28
<i>Coleman v. Home Depot</i> , 306 F.3d. 1333 (3d Cir. 2002) .....	50
<i>Colon v. Kuhlman</i> , 865 F.2d 29 (2d Cir. 1988).....	32, 36, 42
<i>DeShaney v. Winnebago Cty. Dep't of Soc. Servs.</i> , 489 U.S. 189 (1989) .....	32, 42
<i>Giglio v. United States</i> , 405 U.S. 150 (1972) .....	53
<i>Government of Virgin Islands v. Testamark</i> , 570 F.2d 1162 (3d Cir. 1978) .....	29
<i>Gov't of Virgin Islands v. Fahie</i> , 419 F.3d 249 (3d Cir. 2005) .....	27
<i>Kyles v. Whitley</i> , 514 U.S. 419 (1995).....	26, 38
<i>Link v. Mercedes-Benz of North America, Inc.</i> , 788 F.2d 918 (3d Cir. 1986) .....	46
<i>McQueeney v. Wilmington Trust Co.</i> , 779 F.2d 916 (3d Cir. 1985).....	46
<i>Richardson v. Marsh</i> , 481 U.S. 200 (1987) .....	49
<i>Stinson v. United States</i> , 508 U.S. 36 (1993) .....	50
<i>United Bhd. of Carpenters &amp; Joiners v. Scott</i> , 463 U.S. 825 (1983).....	32
<i>United States v. Agurs</i> , 427 U.S. 97 (1976) .....	26
<i>United States v. Barone</i> , 913 F.2d 46 (2d Cir. 1990).....	48
<i>United States v. Bornman</i> , 559 F.3d 150 (3d Cir. 2009).....	49
<i>United States v. Boyd</i> , 961 F.2d 434 (3d Cir. 1992).....	29
<i>United States v. Brink</i> , 39 F.3d 419 (3d Cir.1994) .....	41
<i>United States v. Bump</i> , 605 F.2d 548 (10th Cir. 1979) .....	57
<i>United States v. Busic</i> , 587 F.2d 577 (3d Cir.1978) .....	50
<i>United States v. Christian</i> , 302 F. App'x 85 (3d Cir. 2008) .....	41
<i>United States v. Fuentes</i> , 563 F.2d 527 (2d Cir.1977).....	48
<i>United States v. Goichman</i> , 547 F.2d 778 (3d Cir. 1976) .....	47
<i>United States v. Hamilton</i> , 334 F.3d 170 (2d Cir. 2003).....	48

<i>United States v. Higgs</i> , 713 F.2d 39 (3d Cir. 1983) .....	56
<i>United States v. Hill</i> , 976 F.2d 132 (3d Cir. 1992) .....	27
<i>United States v. Hines</i> , 628 F.3d 101 (3d Cir. 2010).....	42
<i>United States v. Jacobs</i> , 44 F.3d. 1219 (3d. Cir. 1995) .....	50
<i>United States v. Joshua</i> , 976 F.2d 844 (3d Cir.1992).....	50, 51
<i>United States v. Knohl</i> , 379 F.2d 427 .....	48
<i>United States v. Kopituk</i> , 690 F.2d 1289 (11th Cir. 1982).....	56
<i>United States v. Kubiak</i> , 704 F.2d 1545 (11th Cir.) .....	56
<i>United States v. Lacerda</i> , No. 12–303, 2013 WL 3177814 (D.N.J. June 19, 2013) .....	49
<i>United States v. Lisiansky</i> , No. S2-11-Cr.-986 (GBD), 2014 WL 1046750 (S.D.N.Y., March 13, 2014) .....	36
<i>United States v. Lore</i> , 430 F.3d 190 (3d Cir. 2005) .....	49
<i>United States v. Loud Hawk</i> , 628 F.2d 1139 (9th Cir. 1979).....	29
<i>United States v. McKeever</i> , 169 F. Supp. 426 (S.D.N.Y. 1958) .....	45
<i>United States v. Merlino</i> , 349 F.3d 144 (3d Cir. 2003).....	38
<i>United States v. Pelullo</i> , 14 F.3d 881 (3d Cir. 1994).....	27
<i>United States v. Pelullo</i> , 399 F.3d 197 (3d Cir. 2005).....	38
<i>United States v. Rahman, et al.</i> , 189 F.3d 88 (2d Cir. 1999) .....	passim
<i>United States v. Scott</i> , 673 F.Supp.2d 331 (M.D. Pa. 2009) .....	50
<i>United States v. Sherman</i> , 426 F. Supp. 85 (S.D.N.Y. 1976) .....	57
<i>United States v. Sophie</i> , 900 F.2d 1064 (7th Cir. 1990) .....	42
<i>United States v. Starks</i> , 515 F.2d 112 (3d Cir. 1975).....	43, 44, 45
<i>United States v. Stevens</i> , 935 F.2d 1380 (3d Cir. 1991).....	29, 39
<i>United States v. Taylor</i> , 379 F. App'x 240 (3d Cir. 2010) .....	41
<i>United States v. Tropeano</i> , 252 F.3d 653 (2d Cir. 2001).....	48
<i>United States v. Tutis</i> , 167 F. Supp. 3d 683 (D.N.J. 2016).....	49
<i>United States v. Valenzuela-Bernal</i> , 458 U.S. 858 (1982).....	28
<i>United States v. Vella</i> , 562 F.2d 623 (3d Cir. 1976) .....	55
<i>United States v. Voigt</i> , 89 F.3d 1050 (3d Cir. 1996) .....	41, 42

*Zafiro v. United States*, 506 U.S. 534 (1993)..... 49

**Statutes**

18 U.S.C. § 3500..... 56

18 United States Code Section 1001(a)(2) ..... 25

18 United States Code Sections 249(a)(1) ..... 24

**Rules**

F.R.E. 404(b)..... i, 52

Fed. R. Crim. P. 8(a)..... 49

Fed. R. Crim. P. 14(a)..... 49

Fed. R. Evid. 104(b)..... 46

Fed. R. Evid. 901(a)..... 46, 48

### **PRELIMINARY STATEMENT**

On September 1, 2016, Defendant Frank Nucera, Jr. unlawfully assaulted an eighteen-year-old African American man, Civilian 1. Civilian 1 was in custody and handcuffed, and being escorted by two officers out of a hotel to a waiting police cruiser, when Nucera, who at that time was chief of the Bordentown Township Police Department (“BTPD”), approached Civilian 1 from behind and slammed his head into a doorjamb, causing bodily injury to Civilian 1. Nucera’s assault of Civilian 1 was not only an unwarranted and illegal deprivation of Civilian 1’s constitutional rights, it was also motivated by an intense racial animus. Within hours after the assault, a subordinate officer, BTPD Sgt. Nathan Roohr, surreptitiously recorded Nucera at the police station using racist and offensive language regarding Civilian 1 and other African Americans present at the time of the arrest.

Nucera now seeks dismissal of the Indictment, Crim. No. 17-532 (RBK), charging him with a federal hate crime, deprivation of rights under color of law, and making false statements to the FBI, on the grounds that the FBI supposedly destroyed evidence that could somehow exculpate him of these offenses. The FBI did no such thing, but rather acted in good faith to preserve all evidence in this matter as soon as they obtained it.

Barring dismissal, Nucera asks that this Court waste judicial resources and prejudice the government by bifurcating the trial in this matter, so that the Jury need not hear the relevant, hateful language Nucera used to describe the victim and other African Americans before deciding whether Nucera is guilty of false statements and deprivation of rights under color of law. Nucera, who received voluminous discovery in this matter both at the time of arraignment and within weeks thereafter, ahead of the timelines set forth in the Court’s scheduling order, also needlessly requests that this Court conduct a *Starks*

hearing and instruct the government to comply with its discovery obligations. Nucera's allegations are meritless and moot. They do not entitle him to relief.

### **STATEMENT OF FACTS**

Defendant Frank Nucera, Jr. had been chief of the Bordentown Township Police Department ("BTPD") for some time when, in or around 2009-2010, he assumed the additional role of township business administrator. In that capacity, he not only oversaw all BTPD operations, he also oversaw personnel matters for all sworn and non-sworn township employees. He was in charge of all hiring, firing and paychecks for the township (Government's Appendix ("GA") at GA001, GA006).<sup>1</sup> The rank and file police officers under Nucera's supervision became increasingly concerned about Nucera's demeanor and behavior during the years that followed.

Nucera regularly subjected the officers under his command to "rants of profanity, demeaning comments, brow beating, and yelling." GA012. Nucera not only habitually belittled the officers in his employ, but also demeaned civilians, and therefore tended to escalate, rather than deescalate, interactions between police and civilians when he responded to calls. GA012, GA016-17, GA039-40, GA043, GA047.

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<sup>1</sup> The Government's Appendix consists of reports documenting FBI witness interactions and interviews, copies of attachments thereto, such as documents received from witnesses, and draft transcripts of relevant recordings.

In the course of performing his duties, Nucera made comments that evinced his reliance on offensive racial stereotypes to guide his allocation of police resources, such as his insistence that police dogs were necessary when BTPD provided security for local high school basketball games when Bordentown Regional High School's opposing team was predominantly black. GA018, GA044, GA040. And Nucera used racial slurs and other derogatory terms to refer to minorities while he was on duty and communicating with the police officers under his command. GA018 (using "nigger" and "moulinyan" to refer to black people, "towel head" to refer to people of Indian/Southeast Asian descent, "spics" in reference to Latinos, and "faggot" in reference to gay people); GA043 (Nucera talking about "fucking Mexicans" in reference to a Latino driver, wanting to get rid of "sandniggers," by which the listener understood him to mean people of middle eastern descent, and having used the words "nigger" and "moulinyan" in reference to black people); GA052 (using the terms "mulignans" and "nigger"); GA059 (describing Nucera's use of racial slurs such as "muli," "nigger" and "sand nigger").

While some officer concerns were of a more mundane variety (*see* GA067, GA073, and GA076 (officers explaining that Nucera frequently seemed overly focused on the number of traffic tickets each officer wrote because it generated money for the township, and that Nucera did not, in their view, assign overtime jobs fairly)), whatever the issue, officers feared bringing it to Nucera directly, and did not feel safe reporting his conduct to local political or law enforcement authorities. Nucera had a reputation among the officers in his department for

retaliating against subordinates who attempted to complain about any aspect of his conduct or department management, and officers believed their jobs, or even their careers in law enforcement, were in jeopardy should they speak up. Moreover, because Nucera was not only police chief but also the township business administrator, officers feared that there was no one to whom they could report their concerns who could shield them from retaliation. GA011 (officer describing working under Nucera as paranoia inducing because Nucera “had gotten rid of several officers”); GA045 (officer never reported Nucera’s misconduct because of his perception that Nucera ran “the entire town”); GA018 (officer “petrified of” Nucera and believed Nucera “had all the power” and “held all the cards”); GA040 (officer “was more scared of dealing with Frank Nucera than arresting a guy with a weapon”); GA059 (“You don’t cross the chief . . . . He has ended people’s careers.”); GA080 (“he (Chief Nucera) will keep coming for you until he annihilates you.”)<sup>2</sup>

#### BTPD Officers Start Documenting and Recording Nucera’s Conduct

It was in this environment that a number of different BTPD officers started documenting various interactions with Nucera. As early as 2009, BTPD Officer Erich Hess began taking written notes on incidents involving Nucera’s

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<sup>2</sup> The government does not take any position as to the truth or falsity of these allegations of Nucera’s retaliation against BTPD officers. Rather, the government includes them here to demonstrate the fearful mindset of the officers working under Nucera in the BTPD during the years leading up to the events alleged in the Indictment. The government’s aim is to provide useful context for the creation of various recordings of Nucera by his subordinates, including the recordings created by BTPD Sgt. Nathan Roohr, which were described in the Indictment, and which Nucera now asks this Court to suppress.

management of the department that struck Hess as improper or inappropriate. GA013. In December of 2014, Hess began using his cell phone to record conversations with Nucera concerning administration of the department. *Id.* But he would not remain alone in doing so. By early 2017, when the FBI conducted interviews with numerous members of the BTPD, ten BTPD officers stated that they had used either their cell phones or small digital recording devices to record interactions with Nucera – or had otherwise attempted to document with written notes, computer screenshots or emails various interactions with Nucera – over the preceding approximately two-year period. Some officers stated that they started recording Nucera as a result of a joint determination to do so made during the fall of 2016. These officers feared Nucera, disliked the conditions under which they worked, and felt the need to somehow protect themselves from Nucera. *See* FBI interview reports at GA089, GA072-73, GA040, GA066, GA093, GA013, GA096, GA099, GA105, and GA060. At that time, the entire BTPD consisted of twenty-three officers, including Nucera himself, meaning that nearly half the officers working under Nucera were disturbed enough by his behavior that they took the extraordinary measure of recording their own chief, well before the FBI began the criminal investigation that lead to Nucera's indictment.

BTPD Sgt. Nathan Roohr was among the officers who began recording interactions with Nucera prior to the FBI investigation. Sgt. Roohr would later recall that he first decided to record Nucera sometime during the fall of 2015, and believed that it might have been his friend and fellow BTPD officer James

Chiariello that gave Sgt. Roohr the idea to start recording Nucera. Sgt. Roohr recalled that in or around the fall of 2015, Nucera's "demeanor and behavior [were] escalating." GA106. Sgt. Roohr feared that if he tried to report Nucera's behavior without some type of hard evidence, such as an audio recording, to substantiate his allegations, no one would believe him. GA107. This recollection is corroborated by Officer Chiariello, who later told the FBI that sometime in 2015 he encouraged Sgt. Roohr to start recording his conversations with Nucera. GA067. Sgt. Roohr would later turn over 81 recordings to the FBI, the earliest of which appears to have been created on September 11, 2015, judging by the file name, "20150911 144636". US000001 at audio file 20150911 144636.<sup>3</sup> This first recording captures Sgt. Roohr talking to Nucera over police radio, as well as stretches of empty air and background noise, and does not capture anything remarkable or out of the ordinary. The next recording, generated well over a month later, on October 28, 2015, captures Sgt. Roohr and Nucera out on a police call together where, again, nothing extraordinary appears to have occurred. US000001 at audio file 20151028 160649.

On November 16, 2015, Sgt. Roohr had a disturbing encounter with Nucera, which he would later tell the FBI spurred him to become more diligent in capturing his interactions with Nucera on his cell phone. The day before, an

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<sup>3</sup> When referring to relevant audio files, the government will cite to the electronic folder and file name as produced to the defense in discovery. The government has submitted a disk containing relevant recordings to the Court. The folder and file names on the Court's disk are the same as those produced to the defense and referred to in the text.

African American man was arrested for disorderly conduct after an incident in which he yelled at police officers at BTPD headquarters. On the morning of November 16, 2015, Nucera became aware that a police vehicle had a flat tire, and suspected the prior day's arrestee of having slashed the tire. While Nucera and Sgt. Roohr were standing together behind the police station, Nucera made the following statements:

I wish that nigger would come back from Trenton and give me a reason to put my hands on him, I'm tired of 'em. These niggers are like ISIS, they have no value. They should line them all up and mow 'em down. I'd like to be on the firing squad, I could do it. I used to think about if I could shoot someone or not, I could do it, I'm tired of it.

Sgt. Roohr was troubled by Nucera's comments, and also disheartened when he realized that he had not activated his cell phone audio recorder prior to the encounter. He immediately wrote down Nucera's statements in a notepad.

GA106 (FBI interview report); GA109 (Roohr 11/16/15 handwritten notes).

Sgt. Roohr also told Officer Chiariello about Nucera's comments close in time to when they occurred. GA065 (FBI report of Chiariello interview).

Over the next approximately nine months, up to and including August 31, 2016, Sgt. Roohr continued to record interactions with Nucera, both in his notepad, and, when possible, via his cell phone audio recorder. On April 30, 2016, for example, Sgt. Roohr and Nucera were both providing security at a public event. Sgt. Roohr had his cell phone recorder activated that day, and captured approximately three hours of audio files, some of which was dead air, some of which was background noise or interactions with the

public, and portions of which captured conversations with Nucera.<sup>4</sup> US000001 at audio files 20160430 123531, 20160430 141125, and 20160430 153833. That day, Nucera made statements expressing his belief that police dogs could, and should, be used for the purpose of intimidating African Americans, whom he called “fucking mullies.” GA125-28, quoted remark at GA126 (draft transcript (disclosed to the defense as US000037) of recording clip (disclosed as US000036) from the longer audio file 20160430 153833 referenced above).

Although the *fact* that Sgt. Roohr had made recordings of Nucera for nearly a year at this point, from September 11, 2015 through August 31, 2016, would later be relevant to a federal criminal investigation, with the notable exception of Nucera’s comments condoning the discriminatory use of police dogs, the *content* of the recordings would not be. Nor is there any evidence to suggest that Sgt. Roohr – or any of the other BTPD officers also recording Nucera during this time – had any idea their recordings would one day be turned over to the FBI.

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<sup>4</sup> Long stretches of irrelevant content are representative of the majority of the recordings that Sgt. Roohr made, as his practice was to switch on his cell phone’s recording mechanism whenever he anticipated he might be in a position to capture interactions with Nucera, and simply leave the recorder on for hours at a time.

The September 1, 2016 Assault of the Victim<sup>5</sup>

On the evening of September 1, 2016, BTPD Det. Sgt. Salvatore Guido and BTPD Lt. Shawn Mount responded to a call for help at the Bordentown Ramada hotel. The hotel manager had called police to report that two young individuals had failed to pay for a hotel room the night before and had been swimming in the hotel pool that afternoon. The two individuals were the victim, an eighteen-year-old African American male referred to in the Indictment as Civilian 1, and a sixteen-year-old African American female referred to in the Indictment as Civilian 2. Shortly after Lt. Mount and Det. Sgt. Guido arrived at the Ramada and confronted Civilian 1 and Civilian 2 with the allegation that they had failed to pay for the hotel room, the interaction escalated into a physical struggle in a second-floor hallway. Both Civilian 1 and Civilian 2 resisted arrest. During the struggle, one officer deployed his pepper spray on Civilian 1, and the officer called for backup. In response, a number of other on-duty police officers, including Nucera and Sgt. Roohr, went to the Ramada. With the additional police assistance, Civilian 1 and Civilian 2 were subdued and handcuffed.

Several minutes after Civilian 1 had been handcuffed, officers stood him up and began guiding him towards the stairwell. Civilian 1 briefly stopped

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<sup>5</sup> Although the account of events described in this section are supported by FBI reports as well as other evidence, the government will not cite to those reports and other pieces of evidence here, as these facts go to the heart of the expected testimony and evidence to be introduced at trial, and while in dispute, are not the direct subject of the arguments and claims for relief presented in the defendant's pretrial motions.

walking as he reached the area in front of the stairwell doorway and began shouting at the officers. He was not kicking or struggling. Det. Sgt. Guido placed his hand on Civilian 1's back and began to push him forward to encourage him to keep walking. At that moment, Nucera approached Det. Sgt. Guido and Civilian 1 from behind, grabbed Civilian 1's head and slammed it into the metal doorjamb separating the hallway from the stairwell. Civilian 1's head made a loud thud as it hit the doorjamb.

After the assault by Nucera, officers continued to escort Civilian 1 down the stairs, out of the hotel, and into a patrol vehicle. Civilian 1 was then transported to the BTPD station for processing.

The September 1, 2016 Audio Recordings of Nucera and of the Victim

Sgt. Roohr also headed back to the station in his police vehicle. Sgt. Roohr was shocked and disturbed by Nucera's assault on Civilian 1. Knowing that he might have interactions with Nucera inside the station, Sgt. Roohr activated the audio recorder on his cell phone and put the phone on his person before heading into the station. Once inside, Sgt. Roohr captured audio central to the color of law, hate crime, and false statements charges contained in the Indictment. While at the BTPD station, Civilian 1 complained of head pain and a possible concussion, amongst other injuries, and requested medical attention. Sgt. Roohr captured this request surreptitiously using his cell phone. US000026 (audio recording); GA129-32 (draft transcript disclosed to the defense as US000027).

After Civilian 1's request for medical attention, while Civilian 1 was still inside BTPD headquarters, Nucera was discussing Civilian 1's arrest with Sgt. Roohr, and made the following statements about Civilian 1, Civilian 2, and African Americans in general, all of which were captured on Sgt. Roohr's cell phone:

I'm fucking tired of them man. I'll tell you what, it's gonna get to the point where I could shoot one of these motherfuckers. And that nigger bitch lady [a reference to Civilian 2's aunt], she almost got it.

"Get back." . . . aunt. Well, I said "get back."

"Don't tell me what to do."

I said, "I'm telling you, you're getting close to getting thrown on the fucking floor too. Get back."

"That's my niece." I said, "I don't care who the fuck it is. Get fucking back! Don't yell at me, one more time."

Fucking nipple hanging bitch. I'm so tired of them man.

US000032 (audio recording); GA134 (draft transcript disclosed to the defense as US000033).

Shortly thereafter, Nucera engaged in the following exchange with Sgt. Roohr:

Nucera: These fucking people. Where are they from?

Roohr: Trenton, I think.

Nucera: They're from Trenton.

Roohr: I think so.

Nucera: Stay the fuck out of Bordentown. Now they can go home and tell them, you can go to

Bordentown, they'll fuck, I just, you know what? It would have been nice if that fucking dog could have come up. 'Cause they would have stopped, put down.

...

That dog, that dog will stop anything right then and there [makes dog noises]. I'm telling you. You'd have seen two fucking niggers stop dead in their tracks. I love that when they do that. I just love that.

US000032 (audio recording); GA136 (draft transcript disclosed to the defense as US000033).

Later that evening, Nucera called Civilian 1 a "[f]ucking little, fucking nigger." US000034 (audio recording); GA141 (draft transcript disclosed to the defense as US000035).

Sgt. Roohr's Report of Nucera's Conduct to BTPD Internal Affairs

Sgt. Roohr recorded Nucera's above September 1, 2016 statements of his own accord, using his personal cell phone, before any interaction with the FBI. Indeed, in the wake of the incident, before going to the FBI, Roohr approached the head of Internal Affairs for BTPD, Captain Brian Pesce. Within approximately two weeks of the incident, Sgt. Roohr approached Cpt. Pesce and reported that Nucera had used excessive force by pushing a male suspect's head into a doorjamb, and that the suspect had later complained of a concussion. Sgt. Roohr also told Cpt. Pesce that he had been recording conversations with Nucera, that Nucera had used racial slurs on these recordings, and had previously made comments about wanting to sic dogs on African Americans and feeling capable of shooting African Americans.

Cpt. Pesce suggested that Sgt. Roohr file a written complaint and include all specific allegations of misconduct of which Sgt. Roohr was aware. GA103, GA017 (FBI interview reports). Sgt. Roohr then submitted a written document to Cpt. Pesce, which included not only Sgt. Roohr's account of Nucera's September 1, 2016 assault on Civilian 1 at the Ramada hotel, but also other incidents in which Nucera had used racial slurs, and otherwise engaged in behavior that had created what Sgt. Roohr and Cpt. Pesce came to refer to as a hostile work environment. GA036 (FBI interview report), GA029 (written complaint provided to the FBI by Cpt. Pesce).

Cpt. Pesce used Sgt. Roohr's written submission to generate his own formal complaint of misconduct, in which he included both material supplied to him by Sgt. Roohr, as well as material he gleaned from other officers. It took several weeks for Cpt. Pesce and Sgt. Roohr to finish drafting the complaint. GA036, GA023-34. Cpt. Pesce felt that the complaint needed to be well supported and carefully drafted, due to the gravity of lodging such complaints about the sitting police chief and township administrator, and due to Cpt. Pesce's perception that previous complaints lodged against Nucera with local authorities never led to any punishment of Nucera or change in his behavior. Instead, in Pesce's view, such past complaints had become fodder for Nucera's retaliation against the reporting officers. GA017-19.

Cpt. Pesce intended to present the complaint to the Burlington County Prosecutor's Office at a meeting scheduled for November 18, 2016. If that failed to generate appropriate action, Pesce intended to present the information

in the complaint to the Bordentown Township Committee. Cpt. Pesce had no thought of contacting the FBI, and contact with the FBI was not the plan that he and Sgt. Roohr discussed. GA036.

Thus, it is quite clear that as of mid-September of 2016, the FBI was still uninvolved. Neither Sgt. Roohr nor Cpt. Pesce, to whom Sgt. Roohr had reported Nucera's conduct, viewed themselves as involved in a federal criminal investigation, as there was no such investigation under way at that time. They considered it a workplace and political matter, a question of ousting an unfit and racist boss from his dual perch as police chief and township business administrator.

During this same time period, Sgt. Roohr continued to capture recordings of Nucera on his cell phone, making eighteen recordings between September 6 and September 28, 2018. US000001 at audio files 20160906 055953 through 20160928 173106. With regard to this batch of recordings, too, although the fact that Sgt. Roohr was recording is significant, the content of these recordings would not later become central to the subsequent FBI investigation of Nucera or central to the government's case against Nucera.

#### Sgt. Roohr's Contact with the FBI

At some point in late September or early October, Sgt. Roohr placed a phone call to an old Bordentown friend and current FBI Special Agent in the Bureau's Philadelphia Division, Jacob Archer. While Sgt. Roohr could not later recall the exact date of this call, the call clearly was placed after September 1, 2016, as the impetus for the call was Sgt. Roohr's having witnessed Nucera's

assault on Civilian 1. Sgt. Roohr came to Special Agent Archer's home, and relayed the events of September 1, 2016 to Special Agent Archer. GA111.

Nucera suggests that Special Agent Archer was aware of the fact that Sgt. Roohr was making recordings of Nucera by sometime in 2015 and that, as a result, Archer, as an FBI agent, had a duty to obtain and preserve all of Sgt. Roohr's recordings (Defense Brief at 50). He is wrong on both counts.

As an initial matter, the evidence Nucera cites in support of his contention that Special Agent Archer was aware that Roohr was recording Nucera sometime in 2015 – an FBI report documenting an interview with BTPD officer James Chiariello (GA064-71) – says no such thing. Rather, the Chiariello report provides Chiariello's speculation concerning two separate issues, which Nucera then conflates and mischaracterizes in order to support his argument. First, according to the report, Chiariello indicated that he, Chiariello, "told Sergeant Roohr in 2015 that he [Roohr] should start recording his conversations with Chief Nucera." GA067. Second, Chiariello provided the FBI with his own hunch that Sgt. Roohr "may have talked with Jake Archer, a former Burlington Township Police Officer and current FBI Special Agent, about issues with Chief Nucera." GA067. The Chiariello report does not indicate that Chiariello knew for certain that Sgt. Roohr had spoken with Special Agent Archer about Nucera. Nor does the report indicate that Chiariello offered any speculation as to the time frame for any discussions that Sgt. Roohr may have had with Special Agent Archer concerning Nucera. Moreover, this Court need not rely on Nucera's mischaracterizations of

Chiariello's speculation. We know the approximate timeframe for Roohr's conversation with Special Agent Archer about Nucera. As outlined above, those conversations clearly were initiated sometime *after September 1, 2016*.

Additionally, Nucera's contention that if Special Agent Archer knew that Sgt. Roohr was recording Nucera as early as 2015, Special Agent Archer would have had an obligation to obtain and collect those recordings is nonsense. The events that triggered a federal investigation occurred in *September of 2016*. Even if Special Agent Archer were aware as early as 2015 that Sgt. Roohr was recording Nucera – which, again, is a contention unsupported by the evidence at hand – there would have been no way for Archer to anticipate that the recordings would one day become relevant to a federal criminal investigation. In 2015, when Sgt. Roohr and other BTPD officers started recording Nucera, they believed they were safeguarding themselves from possible future unfair working conditions or retaliation, not collecting evidence of an as-yet uncommitted federal crime.

The FBI becomes aware of information that leads to criminal investigations in myriad ways and through myriad sources. In this particular case, Special Agent Archer became the conduit between Roohr and the New Jersey FBI Special Agent who initiated the FBI's investigation into Nucera's assault on Civilian 1, Special Agent Arthur Durrant.

Before joining the FBI, Special Agent Archer was a member of the Bordentown *City* Police Department (GA111), a neighboring department to the BTPD. In that context, he knew and became friendly with many BTPD officers,

including Sgt. Roohr. In 2007 and 2008, Archer, who was then working in Bordentown and had not yet joined the FBI, provided the FBI with information concerning Nucera, which Special Agent Durrant investigated at that time. That investigation was closed in 2008 without the filing of any charges. But as a result of Archer's time as a local law enforcement officer in Bordentown City, and his interaction with the FBI in 2007-2008, Archer had contacts not only with local BTPD police officers like Sgt. Roohr, but also with Special Agent Durrant.

Special Agent Archer did not launch an investigation into Nucera's conduct. Nor would it have made sense for him to do so, as he was assigned to the Philadelphia Division, and the conduct described by Roohr took place in Bordentown Township, New Jersey. Instead, Special Agent Archer told Roohr that he would put him in contact with Special Agent Durrant, who at that time was unavailable as a result of pressing matters in an unrelated investigation. Special Agent Archer relayed to Sgt. Roohr that Special Agent Durrant would reach out to Sgt. Roohr when he was able to do so. GA111.

From October 1, 2016 through November 16, 2016, Sgt. Roohr used his cell phone to make numerous recordings, most of which capture conversations with Nucera. US000001 at audio files 20161001 083947 through 20161116 120034. The content of these recordings also is not especially pertinent to the government's case against Nucera.<sup>6</sup>

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<sup>6</sup> On or about October 5, 2016, by happenstance, FBI Special Agent Vernon Addison, who would *later* learn of and be assigned to the investigation

On November 17, 2016, Sgt. Roohr met for the first time with FBI Special Agent Durrant. Sgt. Roohr reported Nucera's September 1, 2016 assault on Civilian 1, as well as Nucera's use of racial slurs to describe Civilian 1 and other African Americans on other occasions. Sgt. Roohr also reported Nucera's prior statements about feeling capable of shooting African Americans. GA100-103.

After Special Agent Durrant's initial meeting with Sgt. Roohr, the FBI contacted Cpt. Pesce, and asked that Pesce hold off on presenting his and Roohr's complaint to the Burlington County Prosecutor's Office. Cpt. Pesce therefore canceled the November 18, 2016 meeting he had previously scheduled with the Burlington County Prosecutor's Office. GA036-37.

From November 18 through November 22, 2016, Sgt. Roohr used his cell phone to record four conversations with Nucera, as well as three other conversations in which not all participants are identifiable, so Nucera may or may not have been present and recorded. US000001 at audio files 20161118 210913 through 20161122 121533. The contents of these recordings also are not especially pertinent to the government's case against Nucera. Sgt. Roohr was not instructed by the FBI to make these recordings, and the FBI had no advance knowledge that he would do so.

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into Nucera's assault of Civilian 1, once that investigation actually came to be, met with and interviewed Civilian 1 in connection with an entirely unrelated matter. The report documenting that interview was provided to the defense and is included in the Government's Appendix. A review of that report makes clear that Special Agent Addison and Civilian 1 did not discuss the events of September 1, 2016 when they met the following month to discuss matters relating to a wholly separate investigation. GA113-14.

On the morning of November 23, 2016, Sgt. Roohr used his cell phone to record a conversation with Nucera. Nothing especially noteworthy or out of the ordinary is captured on this recording, in which Nucera invited Sgt. Roohr and another officer to stop by his home for dinner. US000001 at audio file 20161123 092951. Sgt. Roohr was not instructed by the FBI to make this recording, and the FBI had no advance knowledge that he would do so.

At approximately 1:00 p.m. on November 23, 2016, Sgt. Roohr met with Special Agent Durrant for the second time, and provided Special Agent Durrant with a thumb drive containing five previously recorded conversations, captured in April and September of 2016.<sup>7</sup> These were the first recordings that Sgt. Roohr provided to the FBI, and included Nucera's April 30, 2016 statements expressing his belief that police dogs should be used to intimidate African Americans, as well as Nucera's racist statements about Civilian 1 and African Americans more generally on the evening of the assault.

Sgt. Roohr explained to Special Agent Durrant that he had used his cell phone to record conversations between himself and other BTPD officers, including Nucera, *prior to having any meetings with the FBI*. Sgt. Roohr also explained that two of the conversations were recorded on the day of Nucera's assault on Civilian 1. Special Agent Durrant subsequently downloaded all of the recordings on Sgt. Roohr's thumb drive onto a disk (saved as "1B-1") to preserve them and returned the thumb drive to Sgt. Roohr. GA115-16.

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<sup>7</sup> US000012 at audio files 20160430 123531; 20160430 141125; 20160430 153833; 20160901 192009; and 20160901 212518.

Special Agent Durrant discussed the information he had learned from Sgt. Roohr with Special Agent Vernon Addison and their supervisors, as well as the United States Attorney's Office, and both the FBI and the United States Attorney's Office agreed to open the investigation that led to the instant federal charges against Nucera. GA103-04.

Sgt. Roohr continued to use his personal cell phone to record conversations with Nucera in the weeks that followed. On December 1 and 3, 2016, Sgt. Roohr recorded five interactions with Nucera, the contents of which are not pertinent to the government's case. US000001 at audio files 20161201 080732, 20161201 102208, 20161203 102824, 20161203 110607, 20161203 173857. Sgt. Roohr was not instructed by the FBI to make these recordings, and the FBI had no advance knowledge that he would do so.

At approximately 6:35 a.m. on December 12, 2016, however, assigned Special Agents Addison and Durrant met with Sgt. Roohr and provided him with an FBI recording device, "1D-1," which the agents attempted to activate at that time. The aim was to have Sgt. Roohr engage in conversations with Nucera and Sgt. Guido about Civilian 1's arrest using the ruse that Sgt. Roohr was concerned someone might file a civil lawsuit as a result of that evening's events, and thereby elicit conversation about Nucera's conduct from both Sgt. Guido and Nucera. The agents were unaware, at that time, that recording device 1D-1 had failed to activate. Sgt. Roohr also activated the recorder on his cell phone, which captured the conversations that FBI recording device 1D-1 did not. Using his cell phone, Sgt. Roohr captured conversations between

himself and Sgt. Guido, as well as a conversation with Nucera. In these conversations, Sgt. Roohr brought up the idea of a possible civil lawsuit against the department with both Sgt. Guido and Nucera. US000001 at audio file 20161212 064652.

At approximately 2:45 p.m. on December 12, 2016, Sgt. Roohr again met with the FBI case agents, who took custody of recording device 1D-1 and attempted to deactivate it. The contents of the recording produced by 1D-1 seem to indicate that the device actually was accidentally *activated* at that time, and subsequently captured non-pertinent noise and muffled conversations unrelated to the investigation.<sup>8</sup> At that time, case agents activated a second FBI recording device, “1D-2,” and provided it to Sgt. Roohr.

Sgt. Roohr, wearing FBI recording device 1D-2, captured a series of mundane office interactions, a response to a routine police call, and solo driving time, none of which are especially relevant to the government’s case against Nucera. US000015. As he had done earlier that day, Sgt. Roohr also activated his cell phone during this time period, and captured overlapping insignificant material with his cell phone. US000001 at audio files 20161212 150814 and 20161212 162733. At approximately 7:21 p.m. on December 12, 2016, Special Agent Addison met with Sgt. Roohr, took custody of FBI recording device 1D-2, and deactivated it. GA117.

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<sup>8</sup> In an abundance of caution, the contents of 1D-1 nonetheless were produced in discovery, along with the FBI report documenting the interaction, collectively marked as US000014.

At approximately 3:00 p.m. the following day, December 13, 2016, Sgt. Roohr again met with Special Agents Addison and Durrant. Special Agent Addison activated three FBI recording devices, “1D-3,” “1D-4” and “1D-5,” and provided them to Sgt. Roohr. Sgt. Roohr then recorded a number of conversations with BTPD personnel, including Nucera, concerning the September 1, 2016 Ramada hotel incident using these simultaneously recording devices. US000016, US000017, and US000018. Among the conversations Sgt. Roohr captured on these FBI devices was one in which Sgt. Roohr again used the ruse of pretending to fear an imaginary lawsuit to elicit statements from Nucera concerning Civilian 1’s arrest. Nucera attempted to defend the excessive use of force against Civilian 1 by arguing that numerous police officers had to respond to the Ramada “cause of six unruly fucking niggers.” US000038 (audio recording); GA145 (draft transcript disclosed to the defense as US000039).

As Sgt. Roohr had done the day before, he also turned on the audio recorder on his personal cell phone on December 13, 2016, and captured approximately two hours and 48 minutes of audio. This audio file includes conversations with BTPD personnel concerning the Ramada incident and other matters, as well as empty air and background noises. US000001 at audio file 20161213 153810.

At approximately 7:28 p.m. on December 13, 2016, Sgt. Roohr again met with Special Agent Addison, who took custody of FBI recording devices 1D-3, 1D-4 and 1D-5, and deactivated them. At that time, Sgt. Roohr also gave

Special Agent Addison a thumb drive containing the all of the audio files Sgt. Roohr had recorded via his personal cell phone on December 12 and 13. GA118-19; US000013 at audio files 20161212 064652, 20161212 150814, 20161212 162733, and 20161213 153810. These recordings are the last recordings Roohr recorded on his personal cell phone of which the government is aware.

On December 22, 2016 at approximately 6:45 a.m., Special Agents Addison and Durrant met with Sgt. Roohr, activated FBI recording devices 1D-7 and 1D-8, and provided them to Sgt. Roohr. Throughout the day, Sgt. Roohr had a series of conversations with various BTPD officers, including Nucera, about Civilian 1's arrest. On this occasion, Sgt. Roohr did not capture any audio using his personal cell phone. GA122-24.

Meanwhile, at approximately 7:07 a.m. on December 22, 2016, Special Agents Addison and Durrant conducted an interview with Nucera, which they surreptitiously recorded. In the interview, Nucera emphatically denied ever touching Civilian 1 during the September 1, 2016 Ramada hotel arrest. GA147-53 (Draft transcripts provided to the defense at US000043 and US000045).

At approximately 8:19 p.m. The case agents again met with Sgt. Roohr, took custody of devices 1D-7 and 1D-8, and deactivated them. GA122.

On January 11, 2017, Sgt. Roohr was served with a federal grand jury subpoena requesting, inter alia, "all audio and/or video recordings in his possession in which Bordentown Township Police Department personnel have

been recorded, whether recorded inside the Bordentown Township Police Department headquarters or elsewhere.” GA154. Sgt. Roohr came to the FBI’s Trenton office with his personal laptop computer. At that time, he met with the case agents and Special Agent Addison assisted Sgt. Roohr in downloading 81 audio files from Sgt. Roohr’s personal computer onto an FBI temporary storage device. Sgt. Roohr advised the case agents that *prior to contacting the FBI*, he had deleted additional audio recordings he made after reviewing the recordings and determining that nothing relevant was captured. Special Agent Addison saved the 81 audio files voluntarily recorded by Sgt. Roohr to a disk marked 1A-29, the complete contents of which were later disclosed to the defense as US000001. GA105 (FBI report of 1/11/17 meeting with Sgt. Roohr).

Some of these 81 audio files are duplicative of files Sgt. Roohr had previously provided to the FBI, as Sgt. Roohr had provided select audio files to the FBI on prior occasions, starting with the five recordings he gave to Special Agent Durrant during their November 23, 2016 meeting. But the 81 files Sgt. Roohr gave to the FBI on January 11, 2017 represent the universe of audio files Sgt. Roohr’s provided to the FBI that he previously had recorded on his cell phone. The government’s investigation continued in the months that followed.

On October 31, 2017, the government filed a criminal complaint charging Frank Nucera, Jr. with violations of 18 United States Code Sections 249(a)(1) (willfully causing bodily injury to Civilian 1 because of Civilian 1’s race – the hate crime charge), and 242 (deprivation of rights under color of law). Nucera

was arrested on November 1, 2017, appeared before the Honorable Ann Marie Donio, and was released on bail. On December 7, 2017, a federal grand jury indicted Nucera on the above charges, as well as one count of violating 18 United States Code Section 1001(a)(2) (false statements). On December 21, 2017, Nucera appeared before this Court for arraignment, at which time the government provided early discovery. Further discovery was provided on January 3, 2018, at which time, the government requested reciprocal discovery.

On August 21, 2018, Nucera filed pretrial motions seeking, *inter alia*, dismissal of the Indictment, an evidentiary hearing, and bifurcation of the hate crimes charge at trial. The government opposes Nucera's motions, and now responds.

### **ARGUMENT**

#### **I. Deletion of audio recordings by a witness who was not acting on behalf of the government, before any interaction with the government, is not grounds for dismissal of the Indictment.**

Nucera first argues that he is entitled to dismissal of the Indictment because the government supposedly acted in bad faith in failing to preserve and deliver to Nucera potentially useful evidence. Specifically, Nucera argues that the United States Attorney's Office and FBI case agents should have anticipated that BTPD police Sgt. Nathan Roohr would record Nucera of his own accord on his personal cell phone before ever meeting with the FBI, and also divine that before ever meeting with the FBI, Sgt. Roohr would review the recordings he made and delete some. The loss or destruction of recordings by

a third party acting outside the government's control is not grounds for dismissal of an Indictment, even if that same individual has, at times, acted as an informant and made other recordings at the government's behest. *United States v. Rahman, et al.*, 189 F.3d 88, 139-40 (2d Cir. 1999). Perhaps recognizing that the evidence of record does not support his claim, Nucera next invites the Court to hold an evidentiary hearing, after which, he argues, a sufficient basis will exist to warrant dismissal. Nucera's speculation does not entitle him to an evidentiary hearing, as there can be no due process violation based on the actions of a private citizen. The issues Nucera raises are appropriate fodder for cross-examination of the government's witnesses at trial, where the jury may then consider them in evaluating the weight of the evidence.

As an initial matter, Nucera argues in passing that the deletion of audio files here requires dismissal of the Indictment under *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny (Defense Brief at 46). *Brady* is not directly applicable to this set of facts. *Brady* requires that the government disclose all evidence *in its possession* that is both material and favorable to the accused. *Brady*, 373 U.S. at 87 (emphasis added). Evidence is "material" if there is a reasonable probability that, had it been disclosed, the result of the proceeding would have been different. *Kyles v. Whitley*, 514 U.S. 419, 434-35 (1995). This standard is not met by the "mere possibility that an item of undisclosed information might have helped the defense, or might have affected the outcome of the trial." *United States v. Agurs*, 427 U.S. 97, 109-10 (1976). Undisclosed

exculpatory or impeachment evidence is not material merely because it is favorable to the defense. Instead, it must pertain to a “crucial fact,” *United States v. Pelullo*, 14 F.3d 881, 887 (3d Cir. 1994) or “go to the heart of the defendant’s guilt or innocence” in light of the “totality of the circumstances,” and its absence must “impair the fairness of defendant’s trial.” *United States v. Hill*, 976 F.2d 132, 134-35 (3d Cir. 1992). Moreover, the typical remedy for a *Brady* violation is a new trial, at which the suppressed evidence can be introduced, and not dismissal of an indictment, as Nucera advocates here. Though dismissal of charges is available in extreme circumstances where there was willful misconduct on the part of the prosecution. *See Gov’t of Virgin Islands v. Fahie*, 419 F.3d 249, 254-55 (3d Cir. 2005). Here, the government cannot turn over the evidence in question, as it was destroyed. In such circumstances, the Supreme Court’s line of cases concerning failure to preserve evidence, discussed below, is controlling.

The import of the government’s destruction of evidence in its possession is addressed in several Supreme Court and Third Circuit decisions. As explained above, it was not, in fact, the government that destroyed any evidence here. But as Nucera alleges that it was, and frames his claim in this light, a review of the case law is useful. In *California v. Trombetta*, 467 U.S. 479 (1984), the Supreme Court considered whether the Due Process Clause requires the prosecution to preserve potentially exculpatory evidence, specifically, a breath sample taken from a suspected drunk driver. *Id.* at 481. The Court found that whatever duty exists “is limited to evidence that might be

expected to play a significant role in the suspect's defense.” *Id.* at 488 (footnote omitted). To meet this standard of materiality, the evidence “must both possess an exculpatory value that was apparent before the evidence was destroyed, and be of such a nature that the defendant would be unable to obtain comparable evidence by other reasonably available means.” *Id.* at 489. The Court concluded that the breath sample was not this type of material evidence. *Id.* at 489-90.

In *Arizona v. Youngblood*, 488 U.S. 51 (1988), the Supreme Court considered again “what might loosely be called the area of constitutionally guaranteed access to evidence.” 488 U.S. at 55 (quoting *United States v. Valenzuela-Bernal*, 458 U.S. 858, 867 (1982)). The Court found that its decisions in this area “have stressed the importance for constitutional purposes of good or bad faith on the part of the Government when the claim is based on loss of evidence attributable to the Government.” 488 U.S. at 57. Even though the government in *Youngblood* caused the loss of evidence through negligence, the Court rejected the argument that this constituted a due process violation. Rather, the Court held, “unless a criminal defendant can show bad faith on the part of the police, failure to preserve potentially useful evidence does not constitute a denial of due process of law.” *Id.* at 58. The Court concluded that the prosecution's failure to preserve a semen sample taken from a sexual assault victim was not in bad faith. *Id.* at 58-59.

The Third Circuit applied the principles of *Trombetta* and *Youngblood* in cases that further clarify the showing needed to establish a due process

violation. In *United States v. Stevens*, 935 F.2d 1380 (3d Cir. 1991), the Court considered the destruction, during testing, of a saliva sample after the district court ordered it preserved. Even though one type of test might have exonerated the defendant, the Court found no evidence of bad faith, because no one knew that it actually would have exonerated him. *Id.* at 1388. And in *United States v. Boyd*, 961 F.2d 434 (3d Cir. 1992), the Third Circuit rejected a similar claim after a urine sample, which tested positive for cocaine, was destroyed. *Id.* at 437.

*Trombetta* and *Youngblood*, taken together and read in light of the Third Circuit's subsequent decisions, state the principles that govern when evidence in the hands of the government has been destroyed. To prove a due process violation, the defendant first must prove that the evidence is material, as defined by *Trombetta*. Under *Trombetta*, to show materiality, the defendant must show that the evidence had apparent exculpatory value and that the defendant could not obtain comparable evidence by other means. Second, the defendant must show that the government acted in bad faith in destroying the evidence. Bad faith is shown only when the actual exculpatory value of the evidence is immediately apparent and when the evidence is destroyed with the intent of preventing the defendant from using the evidence.<sup>9</sup>

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<sup>9</sup> Nucera relies upon on the Third Circuit's decision in *Government of Virgin Islands v. Testamark*, 570 F.2d 1162 (3d Cir. 1978), as well as the Ninth Circuit's decision in *United States v. Loud Hawk*, 628 F.2d 1139, 1152 (9th Cir. 1979). See Defense Brief at 46, 48-49. Given that *Testamark* and *Loud Hawk* both were decided before *Trombetta* and *Youngblood*, they have little relevance in defining the appropriate legal standard. In any event, both *Testamark* and

The Third Circuit has not addressed, however, the more nuanced issue presented here: how are courts to treat instances in which evidence was lost or destroyed by a third party, acting of his own volition, who later coordinated with the government in some fashion? The Second Circuit squarely addressed this issue in *United States v. Rahman, supra*.

In *Rahman*, ten defendants, including Abdel Rahman, a Muslim cleric, were charged with seditious conspiracy and other offenses arising from a wide-ranging conspiracy to conduct terroristic acts in New York City in the early 1990s, including providing aid to those who bombed the World Trade Center in 1993. Rahman was the leader of this conspiracy. *Rahman*, 189 F.3d at 103-05.

In 1991, during the FBI's investigation into this group, an FBI informant, Emad Salem, began to befriend various followers of Rahman in an attempt to infiltrate the organization. *Id.* at 106. During this early phase of the investigation, Salem had agreed to serve only as a confidential informant for the FBI, and had not agreed to serve as a trial witness. FBI agents instructed Salem not to make any recordings. "Nonetheless, Salem surreptitiously recorded many of his conversations, using an automatic device that recorded anyone who called, including family members and others as well as members of the conspiracy." *Id.* at 139. Salem made these recordings both to create a

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*Loud Hawk* held that the destruction of evidence in those cases was harmless and did not prejudice the defendants. Thus, neither is especially helpful to Nucera.

record of his own innocence, and to record the terms of his cooperation with the FBI. *Id.*

When Salem made the FBI aware that he had been recording conversations on his own, the agents first told him to stop. Then they backtracked, telling Salem that making his own recordings was permissible, fearing Salem would stop assisting with the investigation if they told him to stop making the recordings or turn over to the FBI all of his personal recordings. These fears were well founded. In July of 1992, agents asked Salem to record official tapes under the FBI's direction to be used as evidence, and in reaction to this request, Salem quit the investigation. *Id.*

After the February 1993 World Trade Center bombing, however, in the final weeks of the investigation, Salem again began working for the FBI as an informant. At that time he recorded conversations with the defendants at the FBI's request. Salem erased some of his *personal* tapes (by recording over them) before eventually turning them over to the FBI. The tapes that Salem made "under formal FBI supervision during the last weeks of the investigation" were all preserved. *Id.* at 139-40.

Two of the *Rahman* defendants later claimed, in allegations strikingly similar to Nucera's instant claim, that the government encouraged Salem to make his personal recordings and further encouraged him to destroy them selectively. They speculated that the contents of the lost recordings were exculpatory, and that therefore their loss deprived the defendants of due process. *Id.* at 139. The Second Circuit rejected their claims, relying, in part,

on a prior Second Circuit precedent that held that before the court could engage in the *Trombetta/Youngblood* analysis, “the record must first show that evidence has been lost and that this loss is ‘chargeable to the State.’” *Id.* at 139, quoting *Colon v. Kuhlman*, 865 F.2d 29, 30 (2d Cir. 1988) (doctor’s failure to preserve rape victim’s underwear not chargeable to the State, and therefore not a due process violation). Then, and only then, could the court engage in the *Youngblood* analysis, and “whether the loss warrants sanctions depends on the Government’s culpability for the loss and its prejudicial effect.” *Rahman*, 189 F.3d at 139.

This sensible prerequisite is entirely consistent with *Trombetta*, *Youngblood*, and the Third Circuit’s interpretation of those cases in *Stevens* and *Boyd*. In *Trombetta* and *Youngblood* (as well as *Stevens* and *Boyd*), the evidence at issue was destroyed or lost by agents of the government acting in their official capacities. Indeed, a private individual, acting of his own accord, cannot violate anyone’s due process rights, as the Due Process Clause only protects individuals from government actions. See *DeShaney v. Winnebago Cty. Dep’t of Soc. Servs.*, 489 U.S. 189, 196 (1989) (“Like its counterpart in the Fifth Amendment, the Due Process Clause of the Fourteenth Amendment was intended to prevent government from abusing [its] power, or employing it as an instrument of oppression. Its purpose was to protect the people from the State, not to ensure that the State protected them from each other.”) (internal quotations and citations omitted); *United Bhd. of Carpenters & Joiners of Am., Local 610, AFL-CIO v. Scott*, 463 U.S. 825, 831 (1983) (“The Fourteenth

Amendment protects the individual against *state action*, not against wrongs done by *individuals*.”) (emphasis in original) (internal quotations and citations omitted).

**A. BTPD Sgt. Nathan Roohr’s deletion of personal audio recordings is not conduct chargeable to the federal government.**

If the *Rahman* informant’s destruction of his personal tapes was not an action attributable to the government, and therefore failed to form the basis of a due process violation, Sgt. Roohr’s deletion of his personal audio recordings cannot form the basis of a due process violation here.

As noted in the Statement of Facts above, Sgt. Roohr began creating audio recordings of interactions he had with Nucera in or around September of 2015. His initial intent in creating these recordings was to capture evidence of outrageous statements and behavior on Nucera’s part that rendered Nucera, in the minds of his subordinates, an unfit police chief, and created a demeaning and intolerable work environment for BTPD officers. Sgt. Roohr feared that without such evidence, if he tried to report Nucera’s conduct, he would be vulnerable to retaliation. In making these recordings of workplace misconduct, he captured Nucera’s racist and offensive statements about African Americans and other minorities, as well as Nucera’s September 1, 2016 statements about the victim made in the hours immediately following the victim’s arrest and the assault alleged in the Indictment. Sgt. Roohr continued to record interactions with Nucera on his personal cell phone in the weeks and months that followed without the FBI’s knowledge or direction. He continued this practice for several weeks even after he first met with Special Agent Durrant on November

17, 2016, making personal recordings on various occasions from November 18 through December 3, 2016, without the FBI's knowledge.

Commencing on December 12, 2016, however, Sgt. Roohr also started making recordings at the specific request of the FBI, and in close coordination with the assigned FBI case agents, on FBI recording devices and on his own cell phone. As demonstrated in the Statement of Facts above, every recording that Sgt. Roohr made under FBI direction, whether recorded on an FBI recording device or on Sgt. Roohr's cell phone, was preserved and turned over to the defense.

The issue before the Court concerns a subset of the recordings Roohr made *prior* to his first interactions with the FBI. On January 11, 2017, having been served with a federal grand jury subpoena requesting all of his recordings, Roohr met with assigned FBI Special Agents Addison and Durrant and turned over to them the complete set of recordings captured on his own cell phone and saved to his own computer as of that date. These included both recordings he made before ever meeting with the FBI, as well as recordings he continued making, both with and without the FBI's knowledge, after his initial contact with Special Agent Durrant. When Sgt. Roohr met with the assigned FBI agents to turn over these files, he "advised that *prior to contacting the FBI*, he deleted additional audio recordings he made after reviewing the recordings and determining that nothing of importance was recorded." GA105 (emphasis added). Therefore, the operative facts for this Court to assess in light of the law are as follows:

1. A whistleblower attempting to record workplace misconduct on the part of his boss made recordings using his personal cell phone.
2. The whistleblower then reviewed his own recordings and deleted some of them because he believed the recordings had failed to capture anything relevant.
3. Later, the whistleblower met with the FBI and became, in essence, an informant.
4. After becoming an informant, the whistleblower met with the FBI again, turned over to the FBI all the recordings then in his possession, and in doing so, disclosed to the FBI the fact that there were certain audio files he had once possessed, but could not turn over to the FBI because he had deleted those recordings prior to contacting the FBI.
5. Once the whistleblower was acting under FBI direction, he did not delete any recordings.
6. All of the recordings the whistleblower made once acting under FBI direction, whether on his personal device or on an FBI recording device, were preserved and disclosed to the defense.

Like Sgt. Roohr, the *Rahman* informant created the recordings in question using his own recording device. Also like Sgt. Roohr, the *Rahman* informant originally made the recordings not to assist the federal government in its investigation, but for his own reasons, including self-preservation. And as in *Rahman*, all recordings Sgt. Roohr made under the direction and

supervision of the FBI were preserved and disclosed. But Sgt. Roohr's conduct here was even less closely tied to federal government action than the *Rahman* informant's. Unlike Sgt. Roohr, the *Rahman* informant was already working with the FBI when he created and deleted the personal recordings at issue there. The facts before this Court do not allege any destruction of evidence on the part of a government actor, and therefore cannot possibly constitute a due process violation. *Rahman*, 189 F. 3d at 139-140; *Colon*, 865 F.2d at 30.

The fact that Sgt. Roohr happens to have been a local police officer at the time he made and deleted his early, personal recordings does not render his actions "chargeable to the State" (here, the federal government) for purposes of a *Youngblood/Rahman* analysis. When Sgt. Roohr deleted his personal recordings, he had not yet made contact with the FBI, and certainly was not acting at the FBI's behest.

The unpublished memorandum opinion in *United States v. Lisyansky*, No. S2-11-Cr.-986 (GBD), 2014 WL 1046750 (S.D.N.Y., March 13, 2014), though not binding on this Court, is instructive. There, during the course of its investigation of Lisyansky's murder for hire plot, the federal government obtained from the New York City Police Department ("NYPD") certain surveillance video evidence that the NYPD had gathered during its own investigation. At trial, the federal government introduced still photographs created from this surveillance footage. When defense counsel requested the full surveillance video, the prosecution explained that the federal government was not in possession of it and had been unable to obtain it. The prosecution

“was informed by NYPD personnel that the NYPD did not have a copy of that video and that they had no record or recollection of having ever obtained it.”

*Id.* at \*6. In response to Lisiansky’s request for a new trial on the grounds that his due process rights were violated by the prosecution’s failure to obtain and produce the surveillance video, the Hon. George B. Daniels, applying *Rahman*, ruled that “the Government never possessed the surveillance video at issue and any loss is not chargeable to the Government.” *Id.* at \*7.

If the loss of evidence by NYPD personnel acting in their official capacities could not be attributed to the federal government agents and prosecutors investigating Lisiansky, then certainly actions taken by Sgt. Roohr prior to any contact with the FBI, and taken for the purpose of protecting himself from workplace retaliation – not even in the course of any criminal investigation he was conducting on behalf of the BTPD – cannot be attributed to the federal government for purposes of determining whether a due process violation has occurred here.

This outcome, while never directly endorsed by either the Supreme Court or the Third Circuit, flows inevitably from the body of case law that addresses the concept of the “prosecution team” in the context of claims that the prosecution suppressed evidence in violation of *Brady*. As the Third Circuit has noted, “*Brady* places an affirmative obligation on prosecutors ‘to learn of any favorable evidence known to the others acting on the government’s behalf in the case.’ . . . That said, ‘*Kyles* cannot ‘be read as imposing a duty on the prosecutor’s office to learn of information possessed by other government

agencies that have no involvement in the investigation or prosecution at issue.” *United States v. Pelullo*, 399 F.3d 197, 216 (3d Cir. 2005), *as amended* (Mar. 8, 2005), quoting *Kyles*, 514 U.S. at 437, and *United States v. Merlino*, 349 F.3d 144, 154 (3d Cir. 2003). Sgt. Roohr is a witness, not a member of the federal prosecution team. At best, he is a member of a local government agency, the BTPD, that has no involvement in the investigation or prosecution at issue, except that some of its members are witnesses.

In any event, even if Sgt. Roohr’s deletion of a subset of his personal recordings were chargeable to the federal government – it is not – Nucera’s *Youngblood* claim would still fail, as he cannot meet either the materiality or bad faith requirements set forth in *Youngblood* and *Trombetta*.

**B. Nucera cannot establish that the deleted recordings are material.**

Under *Trombetta*, to show materiality, the defendant must show that the evidence had apparent exculpatory value and that the defendant could not obtain comparable evidence by other means. Certainly, there is no indication that Nucera could obtain recordings that Sgt. Roohr captured surreptitiously without his knowledge and then deleted. So the only question before the Court at this stage of the *Youngblood* analysis is whether the evidence had apparent exculpatory value at the time it was deleted. It did not.

The exact contents of these deleted recordings are unknown, and were unknown to the assigned case agents when they first learned of them, after Sgt. Roohr had already deleted them. The recordings may or may not even have captured any interactions with Nucera, or any conversation with anyone

at all, let alone content that could somehow exonerate Nucera. Nucera has not even bothered to allege why, specifically, he believes the missing audio files might have had exculpatory value. He merely asserts that this is the case (Defense Brief at 56-57). If destruction of semen found on a rape victim's clothing did not constitute a due process violation (*Youngblood*), and destruction of a saliva sample, testing of which might have exonerated the defendant did not constitute a due process violation (*Stevens*, 935 F.2d at 1388), then clearly, deletion of audio recordings with unknown contents cannot constitute a due process violation here.

**C. Nucera cannot establish that the FBI, or even Sgt. Roohr, acted in bad faith.**

There is no indication that either the assigned FBI Special Agents or Sgt. Roohr acted with the bad faith necessary to establish a due process violation. Bad faith is shown only when the actual exculpatory value of the evidence is immediately apparent and when the evidence is destroyed with the intent of preventing the defendant from using it.

As noted above, Sgt. Roohr did not make the recordings in question with the intent of aiding a criminal investigation, as there was no criminal investigation into Nucera's conduct at the time he made the recordings. Nor was there any criminal investigation in existence at the time Sgt. Roohr deleted them – prior to contacting the FBI. Thus, any potential exculpatory value these recordings might have had certainly would not have been apparent to Sgt. Roohr at the time he deleted them.

Nor is there reason to suspect that Sgt. Roohr deleted these recordings with the specific intent of preventing Nucera from using them. If that had been the case, it would have made far more sense for Sgt. Roohr to *hide* the fact that he had deleted some recordings. He did not. Rather, he freely explained to the FBI that before the existence of any criminal investigation, he reviewed the recordings that he had made and deleted some, the contents of which appeared to him, at that time, to be irrelevant. The very most that could be said of such conduct is that it was negligent – and even this is a stretch.

Nor can it be said that the assigned FBI agents (the only truly relevant actors for purposes of the present analysis) acted in bad faith. Nucera first faults them for failing to request every recording in Sgt. Roohr's possession immediately upon learning he had made any recordings at all (Defense Brief at 57). This would not have prevented the loss of evidence in question, as by then it was too late. Sgt. Roohr had already deleted the recordings.

Nucera next faults the government for failing to obtain a search warrant to seize and search Sgt. Roohr's personal computer on January 11, 2017, when he brought the computer to the assigned Special Agents' office, on the theory that perhaps forensic testing could have been done on the computer that would have retrieved the files that Sgt. Roohr deleted before first contacting the FBI (Defense Brief at 57-58). There is no evidence to suggest that the case agents purposefully failed to take such steps in order to let apparently exculpatory evidence slip through their fingers so that Nucera would later be unable to use it.

At this stage of the investigation, the case agents were attempting to collect evidence to determine whether enough evidence of a federal crime existed to bring charges. It was their goal to obtain as much relevant evidence as possible so that this determination could be made. And in fact, the agents served Sgt. Roohr with a federal grand jury subpoena requesting all recordings in his possession. GA154-55. Thus, the facts do not suggest that any failure to take a step that would have resulted in acquiring more recordings was intentional. Rather, the most that can be said was that such a failure was negligent. Negligence is not enough to establish a due process violation. *Youngblood*, 488 U.S. at 58; *United States v. Christian*, 302 F. App'x 85, 86-87 (3d Cir. 2008) (finding no due process violation where fingerprint technician failed to follow procedure and lost fingerprint, because there was no evidence the technician had acted purposely or maliciously); *United States v. Taylor*, 379 F. App'x 240, 243 (3d Cir. 2010) (no due process violation where investigators misplaced a surveillance video; though the loss might be characterized as negligence, there was no conscious effort to suppress exculpatory evidence, so no bad faith).

**D. Nucera's speculation that the FBI knew Sgt. Roohr was making recordings prior to the initiation of any formal investigation does not entitle him to an evidentiary hearing.**

In order to receive a pretrial evidentiary hearing on claims alleging a defect in the institution of the prosecution, the defendant's "moving papers must demonstrate a 'colorable claim' for relief." *United States v. Voigt*, 89 F.3d 1050, 1067 (3d Cir. 1996), quoting *United States v. Brink*, 39 F.3d 419, 424 (3d

Cir.1994) (remanding for hearing where Brink alleged facts that, if true, “could violate a defendant’s rights under the Sixth Amendment”). In order to be “colorable,” a defendant’s motion must consist of more than mere bald-faced allegations of misconduct. *Voigt, supra*, citing *United States v. Sophie*, 900 F.2d 1064, 1071 (7th Cir. 1990) (“A district court does not have to hold evidentiary hearing on a motion just because a party asks for one.”). There must be issues of fact material to the resolution of the defendant’s constitutional claim. *Id.* The purpose of an evidentiary hearing is to “assist the court in ruling upon a defendant’s specific allegations of unconstitutional conduct . . . not to assist the moving party in making discoveries that, once learned, might justify the motion after the fact.” *United States v. Hines*, 628 F.3d 101, 105 (3d Cir. 2010).

Here, the facts of record make abundantly clear that Sgt. Roohr’s conduct in deleting the tapes was in no way chargeable to the government. Therefore, as a legal matter, because there was no government action here, there cannot possibly be a due process violation. *DeShaney, supra; Rahman*, 189 F. 3d at 139-140; *Colon*, 865 F.2d at 30. Even were this Court to hold a hearing, and even were the result to be testimony that Sgt. Roohr purposefully deleted the recordings because he believed that they could somehow exonerate Nucera from criminal wrongdoing, he was acting as a private citizen both in making and deleting the recordings, or, at most, as an agent of the BTPD capturing workplace improprieties for potential purposes of internal affairs

review. Under these facts, there is no colorable claim of a due process violation, and therefore no need for an evidentiary hearing.

Nonetheless, if this Court finds that, in an abundance of caution, a hearing would be prudent, the government respectfully requests strict limits on the scope of such a hearing. The hearing should be narrowly tailored to the issue of determining: 1) whether Sgt. Roohr was acting under the direction or control of the federal government when he deleted the audio files in question; and 2) whether he was acting in bad faith.

## **II. There Is No Need For A *Starks* Hearing.**

Citing *United States v. Starks*, 515 F.2d 112 (3d Cir. 1975), Nucera “seeks exclusion of any audio recordings allegedly attributed to him, as well as all other audio recordings, based upon the government’s inability properly to authenticate these recordings by a preponderance of the evidence” (Defense Brief at 65). *Starks* held that “[w]hen a colorable attack is made as to a tape’s authenticity and accuracy, the burden on those issues shifts to the party offering the tape, and the better rule requires that party to prove its chain of custody.” *Id.* at 121. Although he briefly mentions that the recordings are “unintelligible” and that Sgt. “Roohr and others had the ability to manipulate, edit and delete recordings” (Defense Brief at 67), Nucera provides nothing more than these bare assertions in support of this motion. The thrust of Nucera’s attack on the recordings is not based on their authenticity, but rather the fact that Sgt. Roohr “was free to record or not – and to delete recorded conversation when they did not go as he wanted – whenever he wanted to do so” (Defense

Brief at 67). Accordingly, Nucera has not presented a ‘colorable attack’ as to the authenticity of the recorded conversations to shift the burden to the Government and to justify a hearing.

In *Starks*, the defendants questioned the authenticity of a proffered tape recording because there were “several versions or copies of the tape of varying degrees of intelligibility.” 515 F.2d at 122. The witness through whom the tape recording was offered was unable to state which of the versions was the original, and there was no evidence or even discovery concerning the chain of custody of any version of the recording. *Id.* at 121-22. The tape was admitted over objection. *Id.* at 121. When it was played for the jury, defense counsel stated categorically that it sounded significantly different from either of the two versions that counsel had previously heard. *Id.* at 122.

The Court of Appeals for the Third Circuit concluded that the trial court had erroneously placed the burden upon the defense to “unauthenticate” the tape recording and had then compounded that error by refusing to require the government to provide discovery that might have permitted the defense to identify witnesses who could shed light upon the chain of custody of the tape. *Id.* at 123. The Court concluded that “[w]hen a colorable attack is made as to a tape’s authenticity and accuracy,” *id.* at 122, which in that case was a challenge that had been made “on not insubstantial grounds,” *id.*, “the burden on those issues *shifts* to the party offering the tape . . . .” *Id.* at 122 (emphasis added). Accordingly, the Court held that the government should have borne the burden to authenticate the recording offered into evidence.

Significantly, the Third Circuit observed in *Starks* that “[b]ecause proffer of [tape-recorded] evidence may, in the particularized circumstances of a given case, involve one or more . . . problems in varying degrees it is difficult to lay down a uniform standard equally applicable to all cases.” Quoting a list borrowed from *United States v. McKeever*, 169 F. Supp. 426, 430 (S.D.N.Y. 1958),<sup>10</sup> the Court characterized it as “a useful exposition” (a word defined by Oxford University Press as “a comprehensive description and explanation of a theory”) of a basis upon which the foundation for admissibility of tape-recorded evidence could be established. The Court did not thereby imply that it considered the list a “uniform standard” for admission of recorded evidence regardless of the circumstances of a particular case.

It is notable that even under *Starks* proof of the seven listed factors was *not* considered essential for the admissibility of recorded evidence in every case tried in the Third Circuit. Equally significant, *Starks* was decided without

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<sup>10</sup> The list, which was included in a footnote in the *Starks* opinion, was as follows:

- (1) That the recording device was capable of taking the conversation now offered in evidence.
- (2) That the operator of the device was competent to operate the device.
- (3) That the recording is authentic and correct.
- (4) That changes, additions or deletions have not been made in the recording.
- (5) That the recording had been preserved in a manner that is shown to the court.
- (6) That the speakers are identified.
- (7) That the conversation elicited was made voluntarily and in good faith, without any kind of inducement.

*Starks*, 515 F.2d at 121 n.11 (quoting *United States v. McKeever*, 169 F. Supp. 426, 430 (S.D.N.Y. 1958)).

consideration of Rule 901(a) of the Federal Rules of Evidence, which was enacted the same year as the *Starks* opinion and had not been in effect when *Starks* was tried. That rule sets forth the general rule for authentication of evidence as follows:

The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims. [Fed. R. Evid. 901(a).]

The Advisory Committee commentary concerning Rule 901 indicated that authentication is “a special aspect of relevancy,” which “falls in the category of relevancy dependent upon fulfillment of a condition of fact and is governed by the procedure set forth in Rule 104(b).” Rule 104(b), in turn, provides the following:

When the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence *sufficient to support a finding of the fulfillment of the condition*. [Fed. R. Evid. 104(b) (emphasis added).]

Courts construing the authentication requirement have observed that “[t]he burden of proof . . . is slight. ‘All that is required is a foundation from which the fact-finder could legitimately infer that the evidence is what the proponent claims it to be.’” *Link v. Mercedes-Benz of North America, Inc.*, 788 F.2d 918, 927 (3d Cir. 1986) (quoting *McQueeney v. Wilmington Trust Co.*, 779 F.2d 916, 928 (3d Cir. 1985)).<sup>11</sup> Thus, “the showing of authenticity is not on a

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<sup>11</sup> Although *Link* and *McQueeney* are civil cases, the evidentiary standard is the same in criminal cases and is unaffected by the higher burden of proof on the substantive issues in a criminal case. See *Bourjaily v. United States*, 483 U.S. 171, 175-76 (1987).

par with more technical evidentiary rules, such as hearsay exceptions, governing admissibility. Rather, there need be only a prima facie showing, to the court, of authenticity, not a full argument on admissibility. Once a prima facie case is made, the evidence goes to the jury and *it is the jury who will ultimately determine the authenticity of the evidence*, not the court.” *United States v. Goichman*, 547 F.2d 778, 784 (3d Cir. 1976) (emphasis added). Under this standard, no pretrial hearing should be necessary to establish the authenticity of the recordings in this case.

Rule 901(b) contains illustrations of some of the methods that can be used to authenticate various kinds of evidence, including, in pertinent part:

**(b) Illustrations.** By way of illustration only, and not by way of limitation, the following are examples of authentication or identification conforming with the requirements of this rule:

**(1) Testimony of witness with knowledge.**

Testimony that a matter is what it is claimed to be.

. . .

**(5) Voice identification.** Identification of a voice, whether heard firsthand or through mechanical or electronic transmission or recording, by opinion based upon hearing the voice at any time under circumstances connecting it with the alleged speaker.

As noted above, these are the very methods that will be used to authenticate the challenged recording in this case: The witnesses will testify that the recordings are authentic and correct and as to how the recordings were made and how they were maintained. They will establish that the conversations were recorded by devices capable of recording conversations, the recordings were transferred to other media, no changes have been made in the recordings, and the recordings have been preserved.

Based in part on Rule 901 of the Federal Rules of Evidence, many courts have rejected the rigidity of the *McKeever* approach. For example, the Court of Appeals for the Second Circuit “has expressly and repeatedly declined to adopt the *McKeever* approach, refusing to ‘adopt[ ] a rigid standard for determining the admissibility of tape recordings.’” *United States v. Hamilton*, 334 F.3d 170, 186 (2d Cir. 2003) (quoting *United States v. Fuentes*, 563 F.2d 527, 532 (2d Cir.1977), *cert. denied*, 434 U.S. 959 (1977)). “Instead,” the Court of Appeals for the Second Circuit has:

adopted a general standard, namely, that the government ‘produce clear and convincing evidence of authenticity and accuracy’ as a foundation for the admission of such recordings.” *Id.* [563 F.2d at 532] (quoting *United States v. Knohl*, 379 F.2d 427, 440 (2d Cir.) . . . . We see no reason to adopt a more rigid standard in this case. A tape recording may be admitted in evidence when it has been properly authenticated “by evidence sufficient to support a finding that the matter in question is what its proponent claims.” Fed. R. Evid. 901(a); see, e.g., *United States v. Tropeano*, 252 F.3d 653, 661 (2d Cir. 2001); *United States v. Barone*, 913 F.2d 46, 49 (2d Cir. 1990).

*Hamilton*, 334 F.3d at 186. No more should be required here.

In summary, *Starks* does not require that all seven prongs cited in its footnote 5 be satisfied; even if it had, Rule 901 has superseded *Starks*; and the trend is toward a practical, flexible application of Rule 901. The Government will provide adequate authentication of the recordings before they are offered into evidence at trial.

Accordingly, the defendant’s request for a full evidentiary hearing should be denied.

### III. Bifurcation of Trial Would be Improper and Impracticable.

Under Fed. R. Crim. P. 8(a), multiple offenses against a defendant may be joined in a single indictment if the offenses are, inter alia, “of the same or similar character.” The Defendant does not claim that the joinder of Count One with Counts Two and Three are in any way improper under Rule 8(a). Rather, he claims that the trial should be “bifurcated” because he would be prejudiced if the jury heard “examples of [the Defendant’s] racially insensitive speech” (Defense Brief at 76). Essentially, the defendant is asking the Court to sever the claims of the indictment, without having to meet the heavy burden imposed under Fed. R. Crim. P. 14(a).<sup>12</sup> There is no basis in law to support this proposed “bifurcation” of the trial. Moreover, it would be impractical under the circumstances, confusing and repetitive, a waste of judicial resources and prejudicial to the Government.

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<sup>12</sup> As Nucera is not seeking severance, the Government will not detail how he utterly fails to meet the “heavy burden” to “demonstrate not only that the court would abuse its discretion if it denied severance, but also that the denial of severance would lead to clear and substantial prejudice resulting in a manifestly unfair trial.” *United States v. Lore*, 430 F.3d 190, 205 (3d Cir. 2005) (quoting *Zafiro v. United States*, 506 U.S. 534, 539 (1993)). “A severance should be granted ‘only if there is a serious risk that a joint trial would compromise a specific trial right..., or prevent the jury from making a reliable judgment about guilt or innocence.’” *United States v. Bornman*, 559 F.3d 150, 156 (3d Cir. 2009) (quoting *Lore*, 430 F.3d at 205). And “even if there were some risk of prejudice, ... [it] can be cured with proper instructions, and juries are presumed to follow their instructions.” *Zafiro*, 506 U.S. at 540 (quoting *Richardson v. Marsh*, 481 U.S. 200, 210 (1987)). See also *United States v. Tutis*, 167 F. Supp. 3d 683, 694 (D.N.J. 2016) (discussing and denying motion for severance); *United States v. Lacerda*, No. 12–303, 2013 WL 3177814, at \*7 (D.N.J. June 19, 2013) (same).

In support of his motion for bifurcation, Nucera relies upon three criminal cases: *United States v. Joshua*, 976 F.2d 844, 848 (3d Cir.1992) (*abrogated on other grounds by Stinson v. United States*, 508 U.S. 36 (1993)) *United States v. Busic*, 587 F.2d 577 (3d Cir.1978), *rev'd on other grounds*, 446 U.S. 398 (1980); and *United States v. Scott*, 673 F.Supp.2d 331, 340 – 341 (M.D. Pa. 2009).<sup>13</sup> The three criminal cases relied upon by Nucera have one thing in common; they all concern bifurcation of a count alleging that the defendant was felon in possession of a weapon from the remaining counts of an indictment. Nucera does not cite, and the Government has been unable to find, a single case involving the bifurcation of counts outside of this specific context, much less the bifurcation of a case involving an alleged civil rights violation. Indeed, the Third Circuit has noted that “bifurcation is a ‘novel approach’ to the problem presented.” *Joshua*, 976 F.2d at 848 (*quoting Busic*, 587 F.2d. at 585). The Third Circuit has also declined to extend *Joshua*. *See, United States v. Jacobs*, 44 F.3d. 1219 (3d. Cir. 1995) (declining to extend *Joshua* to single-count felon in possession cases).

The reasons for this are obvious. Bifurcation of a count alleging that the defendant was a felon in possession of a weapon is “considerably more efficient

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<sup>13</sup> Nucera also inexplicably cites to a civil case, *Coleman v. Home Depot*, 306 F.3d. 1333 (3d Cir. 2002) for the uncontroversial proposition that Jurors may be impacted by evidence of racism (Defense Brief 75-76). *Coleman*, which dealt with a District Court’s decision to exclude an EEOC Letter of Determination that the Court found to be conclusory and contrary to the evidence presented to Jury, has no application to the instant matter. Here, the evidence of racism that Nucera wants kept from the Jury are his own words, not an unsupported opinion by a third party.

than conducting an entire new jury trial on the weapon possession charge at a later date.” *Joshua*, 976 F.2d at 848. In such cases, the Jury hears all of the evidence except one fact (the defendant’s prior conviction), they are then charged, the alternates are excused, the remaining Jurors deliberate, and after reaching an initial verdict, they are presented with one additional fact before they are re-charged and called upon to deliberate the guilt or innocence on the felon-in-possession charge.

In cases outside of this one exception, however, bifurcation would be impracticable, if not impossible. In the instant case, for example, the bifurcation that Nucera requests would require that the Jury hear all of the evidence regarding the assault, including many of the recordings, the Jury would then be charged and the alternate Jurors excused, and they would deliberate, and after returning, the Jurors would be presented with a large amount of new evidence, and numerous witnesses, many of whom had earlier testified. This procedure would do nothing to promote efficiency. Indeed, it creates an additional risk that the second part of the trial could not be completed as the alternate Jurors would have been excused.

Moreover, many of the same witnesses, including numerous Bordentown Township police officers, would need to be called and re-called during the two parts of the proposed bifurcated trial. The resulting disjointed trial would be confusing and repetitive, a waste of judicial resources and prejudicial to the government.

Indeed, it would be impossible to compartmentalize the proceedings in the manner Nucera suggests because much of the same evidence, including several of the recordings in which Nucera uses racist language, are directly relevant not only to the hate crime charged in Count One, but also to the deprivation of rights claim charged in Count Two. Notably, Nucera is heard making several racist statements in the recordings that Sgt. Roohr made on September 1, 2016, when Nucera was discussing Civilian 1's arrest with Sgt. Roohr. (US000032 (audio recording); GA133-39 (draft transcript disclosed to the defense as US000033)). Later that evening, Nucera called Civilian 1 a "[f]ucking little, fucking nigger." US000034 (audio recording); GA141 (draft transcript disclosed to the defense as US000035)). Similarly, in the recordings that Sgt. Roohr made on December 13, 2016, Nucera attempted to defend the excessive use of force against Civilian 1 by arguing that numerous police officers had to respond to the Ramada "cause of six unruly fucking niggers." US000038 (audio recording); GA145 (draft transcript disclosed to the defense as US000039)).

Accordingly, Nucera's motion to bifurcate the trial should be denied.

#### **IV. The Government Will Comply With F.R.E. 404(b).**

The United States is aware of its obligations under Rule 404(b) of the Federal Rules of Evidence to provide the defendant with reasonable notice in advance of trial of the general nature of any evidence of other crimes, wrongs or acts that it intends to introduce at trial and will do so in a manner that will not delay the trial. The trial in this matter has not yet been scheduled.

Nevertheless, the Government agrees to provide any such material to the defendant at the pretrial hearing.

Accordingly, the defendant's motion should be denied as moot.

**V. The Government Has Complied With Its *Giglio* Obligations.**

Nucera has moved for an order directing the Government to obtain and to review the personnel and other files regarding the law enforcement witnesses expected to testify in this matter, and to produce any documents and information contained in such files that is impeaching to the witnesses' credibility. The government is well aware of its obligations under *Brady*, *supra*, and its progeny, including *Giglio v. United States*, 405 U.S. 150, 154 (1972), and will promptly disclose any evidence any documents and information contained in such files that is impeaching to the witnesses' credibility if and when any such evidence comes into the government's possession.

Nucera has specially asked for a list of items that he believes the government is obligated to produce (Defense Brief at 86-87). The government agrees that it would have an obligation to produce the first seven items listed by Nucera. However, the last three items on Nucera's list (copies of witnesses' resumes, training certificates of witnesses, and training materials) are clearly not included within the government's *Giglio* obligations. Should those materials be discoverable for other reasons, the government will produce them. (In fact, the Government has provided some training materials in discovery).

Accordingly, the defendant's motion should be denied as moot.

**VI. The Governemnt Has Complied With Its *Brady* Obligations.**

Nucera has moved for an order directing the Government to produce certain material that he claims is covered by *Brady* and *Giglio*. The requested material has either been produced, is not discoverable, or is not in the government's possession.

Specifically:

1. The government has turned over all recordings in its possession that were made by Officer Hess of his conversations with Nucera;
2. The government has turned over all recordings in its possession that were made by Officer Hess of his conversations with other officers;
3. The government has turned over all recordings in its possession that were made by Jacob Olearchik;<sup>14</sup>
4. The government is not in possession of Officer Mount's medical records;
5. As noted in Point V, *supra*, the government is not obligated to disclose the resumes of all its witnesses;
6. As noted in Point V, *supra*, the government is not obligated to disclose the training certificate of all its witnesses;
7. As noted in Point V, *supra*, the government is not obligated to disclose the training materials requested, although it has provided some of these materials to Nucera in discovery;

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<sup>14</sup> The government inadvertently failed to disclose the recoding made by Olearchik that is referenced on Page 90 of the Defense Brief. However, it has now produced the recording at issue.

8. The government is not obligated to disclose the FBI training materials requested;
9. The government understands its obligation to turn over any promises of lenience or non-prosecution of witnesses to the defense, and will comply with such obligation;
10. The unrelated FBI investigation about which Nucera seeks information is completely irrelevant to the charges against Nucera. In an abundance of caution, the government turned over a statement made by Civilian 1, who was a witness in that investigation. However, the mere fact that the victim in this case was a witness in that unrelated case does not make the entire case file discoverable;
11. The government is not in possession of any documents relating to any complaints made by Civilian 1 to the Bordentown Township Committee regarding the events of September 1, 2016.

Accordingly, the defendant's motion should be denied.

**VII. The Government Has Instructed The Agents To Preserve Their Rough Notes.**

Nucera requests that the Court order the government agents to preserve their "rough notes" related to this investigation. The government is aware of and will comply with its obligations under *United States v. Vella*, 562 F.2d 623, 627 (3d Cir. 1976). Should the Court wish to review the agents' notes they will be made available.

Therefore Nucera's motion to compel the government to preserve their "rough notes" related to this investigation is moot and should be denied.

**VIII. The Government Is Aware Of Its Jencks Disclosure Obligations.**

The government is aware of its disclosure obligations under the Jencks Act, 18 U.S.C. § 3500, and will comply with those obligations in a timely manner. To that end, the government will provide this material to Nucera five (5) days before any hearing or the trial of this matter, which more than satisfies the Jencks Act and ensures the defendant's due process rights to a fair and just trial. *See United States v. Higgs*, 713 F.2d 39, 44 (3d Cir. 1983), *cert. denied*, 464 U.S. 1048 (1984); *United States v. Kubiak*, 704 F.2d 1545, 1549-50 (11th Cir.), *cert. denied*, 464 U.S. 852 (1983); *United States v. Kopituk*, 690 F.2d 1289, 1337-41 n.47 (11th Cir. 1982), *cert. denied*, 463 U.S. 1209 (1983).

Accordingly, Nucera's motion for early Jenks should be denied.

**IX. Defendant Should Not Be Permitted To File Additional Motions Based On Discovery Materials Already Received.**

Nucera seeks to reserve the right to file additional motions in the future. To the extent this need arises from any further disclosure of discovery materials, pursuant to the government's continuing discovery obligation, the government does not oppose any such request. However, Nucera should not be permitted to enlarge the time for filing of motions that could have been brought based on discovery materials already provided. Accordingly, the government reserves the right to oppose on timeliness grounds any motions the defendant may file in the future.

**X. Defendant Should Be Ordered To Provide Reciprocal Discovery To The Government.**

By letter dated January 3, 2018, the government sought reciprocal discovery from Nucera. Rule 16(b)(1) firmly establishes the right of the government to reciprocal discovery from a defendant. Subsection (b)(1)(A) allows the government, upon compliance with a legitimate request by a defendant for similar material, to do the following:

inspect and copy or photograph books, papers, documents, photographs, tangible objects, or copies or portions thereof, which are within the possession, custody, or control of the defendant and which the defendant intends to introduce as evidence in chief at trial.

Subsections (b)(1)(B) and (b)(1)(C) mandate reciprocal discovery of scientific tests and expert testimony, respectively. Under the clear language of Rule 16(b)(1), courts uniformly have directed reciprocal discovery. *See, e.g., United States v. Bump*, 605 F.2d 548, 551-52 (10th Cir. 1979) (requiring reciprocal disclosure over defendant's objection that it would violate his constitutional rights); *United States v. Sherman*, 426 F. Supp. 85, 93 (S.D.N.Y. 1976).


To date, the government has not received any reciprocal discovery from Nucera. Because discovery has been made available to the defendant, the government is entitled, pre-trial, to reciprocal discovery under Rule 16(b)(1). Therefore, the Court should direct disclosure of discoverable information forthwith.

**CONCLUSION**

For all the foregoing reasons, the United States respectfully requests that the defendant's pretrial motions be denied without a hearing, and that the defendant be ordered to provide reciprocal discovery.

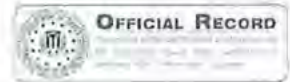
Respectfully submitted,

CRAIG CARPENITO  
UNITED STATES ATTORNEY

By:   
Molly S. Lorber  
R. Joseph Gribko  
Assistant U.S. Attorneys

Dated: October 1, 2018  
Trenton, NJ

# GOVERNMENT'S APPENDIX



## FEDERAL BUREAU OF INVESTIGATION

Date of entry 03/22/2017

COLLEEN MARIE ECKERT, date of birth, [REDACTED], social security number, [REDACTED], home address, [REDACTED], [REDACTED], cell phone number, [REDACTED], was advised of the identity of the interviewing agents and the purpose of the interview. ECKERT was interviewed at the Bordentown Township Municipal Building. ECKERT provided the following information:

ECKERT's maiden name is COCHRAN. She is currently employed by Bordentown Township as the Municipal Clerk and Registrar. ECKERT also has additional duties as Deputy Tax Collector and as a part of the administrative team fulfilling the duties of the Town Administrator. Former CHIEF FRANK NUCERA JR. and CHIEF FINANCIAL OFFICER DAVID KOCIAN were the other members of the administrative team. CHIEF NUCERA was responsible for personnel matters for Bordentown Township. He was also responsible for the agenda and resolutions for the Town Committee. After CHIEF NUCERA retired, an interim Township Administrator was hired, GEORGE HEAUBER.

ECKERT stated, "The three of us would consult with the issues." CHIEF NUCERA would consult with her regarding personnel matters for non sworn personnel and they would rely on the employee manual for guidance. ECKERT, CHIEF NUCERA, and KOCIAN's roles as Township Administrator were defined in the township resolution. ECKERT stated that she could not recall if they deviated from their defined roles in the resolution.

CHIEF NUCERA had civil service appointing authority and was to oversee personnel matters for sworn and non sworn personnel. CHIEF NUCERA often met with the Mayor and developers. KOCIAN was the Certifying Officer and CHIEF NUCERA was the Supervising Officer. KOCIAN prepared the budget. ECKERT had no knowledge of whether CHIEF NUCERA put any line items into the budget. ECKERT indicated that she never got involved with the budget except as per her duties.

CHIEF NUCERA signed off on the time sheets including police officer time sheets. For the non police officer time sheets, CHIEF NUCERA signed off as Director of Personnel. CHIEF NUCERA also signed purchase

Investigation on 03/06 at Bordentown, New Jersey, United States (In Person)

File # 282A-NK-2108117

Date drafted 03/10/2017

by Vernon I. Addison, DURRANT III ARTHUR E

282A-NK-2108117

Continuation of FD-302 of (U) COLLEEN MARIE ECKERT, On 03/06 /2017, Page 2 of 5

orders. ECKERT advised that she signs purchase orders as the final signing authority. ECKERT explained that during a week in 3/2016 she was out due to surgery and CHIEF NUCERA may have signed purchase orders as the final signing authority.

ECKERT stated that she does not know how police department overtime vendors are billed and she does not handle any police department overtime vendor billing. ECKERT knew that some of the police overtime vendors were PSE&G, PETRO TRUCK STOP, and Bordentown High School. None of the billing for these vendors comes across her desk. ECKERT did not know how the officers were paid for overtime from outside vendors. ECKERT believed that SHELLY LNU, the police department secretary, may handle these matters. ECKERT assumed that any money mailed to the police department from police overtime vendors was submitted to the finance department of the township. ECKERT advised that she does not have access to any other township financial accounts except for the municipal clerk's account. CHIEF NUCERA was an authorized signer on the cash management plan. The cash management plan is an annual plan which designates who can be authorized signers and it authorizes how finances are managed.

CHIEF NUCERA was an authorized secondary signer on the municipal clerk's account. KOCIAN was also a secondary signer for the municipal clerk's account. ECKERT advised that she did not know anything about the police department's overtime accounts.

ECKERT did not believe that CHIEF NUCERA had a bachelor's degree. CHIEF NUCERA attended seminars related to his job duties as Township Administrator. ECKERT is required to receive continuing education training related to her duties every two years and ethics training every year. Ethics training was never offered to everyone in the administration. ECKERT believed that the tax assessor, chief financial officer, tax collector, and municipal clerk were required to get ethics training.

ECKERT indicated that CHIEF NUCERA worked as the Township Administrator every day and as issues arose. ECKERT claims that some days she did not see CHIEF NUCERA at all but on other days she saw him for four or five hours. ECKERT, CHIEF NUCERA, and KOCIAN received an extra twenty thousand dollars to share the township administrator duties.

ECKERT advised that there were no set meetings scheduled with CHIEF NUCERA regarding his duties as township administrator. CHIEF NUCERA would meet with ECKERT when issues arose. CHIEF NUCERA would also meet with ECKERT periodically during the day. CHIEF NUCERA wore his police uniform most of the day. CHIEF NUCERA did not have computer access upstairs in the township offices.

FD-302a (Rev. 05-08-10)

282A-NK-2108117

Continuation of FD-302 of (U) COLLEEN MARIE ECKERT, On 03/06 /2017, Page 3 of 5

CHIEF NUCERA's main responsibility as township administrator was human resource matters. ECKERT claimed that she and CHIEF NUCERA worked as equal partners but he was like a mentor to her. ECKERT advised that she has known CHIEF NUCERA since she started working at Bordentown Township in June of 1996.

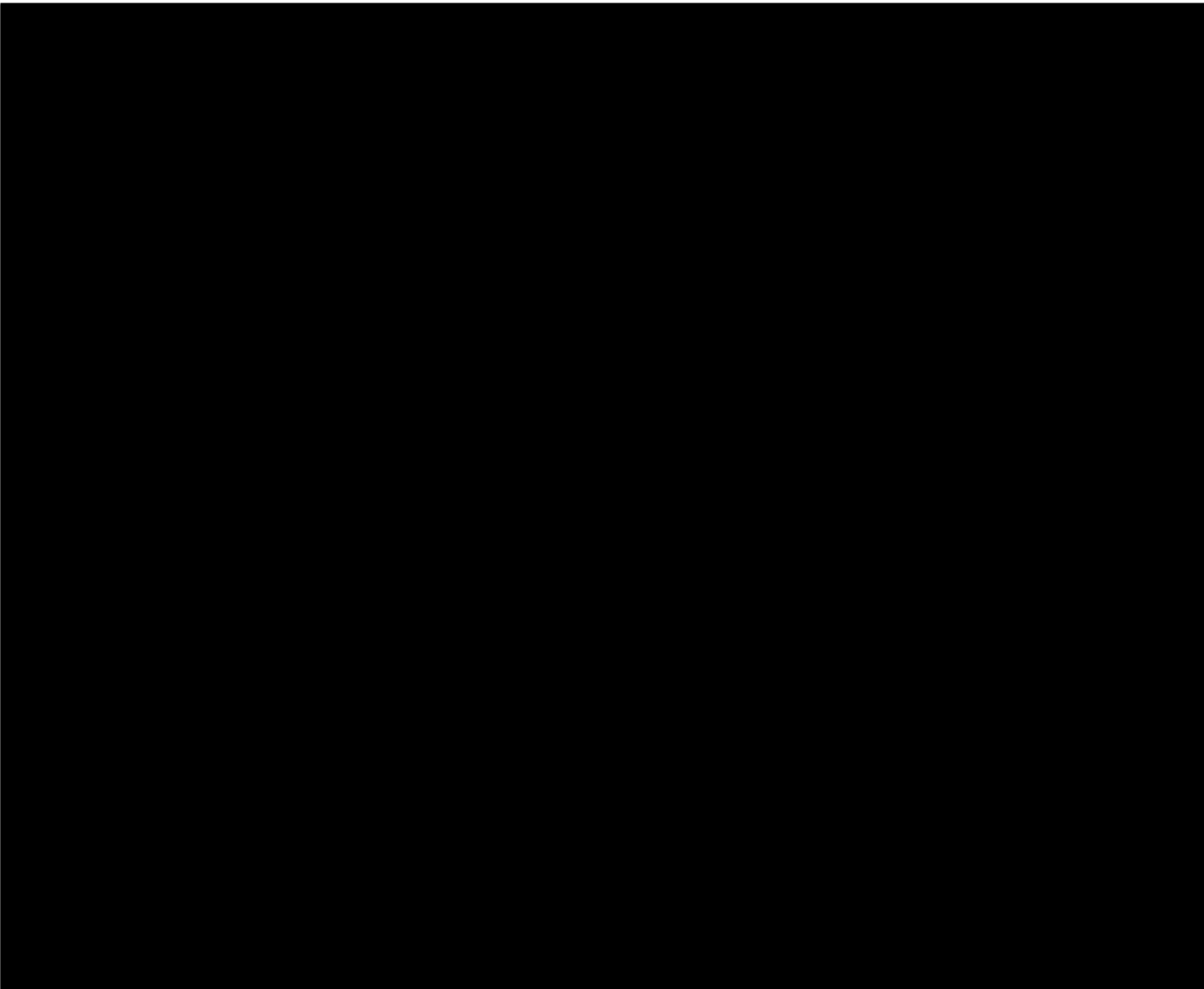
[REDACTED]  
[REDACTED]  
[REDACTED] ECKERT acknowledge that she and CHIEF NUCERA used racial slurs. ECKERT stated that the "n word" was used. ECKERT stated that they used the word "nig" not nigger. ECKERT recalled an occasion when [REDACTED] came into the township building after hours. ECKERT stated, "We'd (ECKERT and CHIEF NUCERA) be like, oh that nig" in response to seeing [REDACTED]. ECKERT claimed the racial slur was said in a joking way. ECKERT never heard CHIEF NUCERA talk about Hispanics. CHIEF NUCERA called people he assumed were of Middle Eastern descent, "towel heads." ECKERT never heard CHIEF NUCERA be disrespectful to women.

ECKERT explained her and CHIEF NUCERA's response to seeing [REDACTED] CHIEF NUCERA felt as though [REDACTED] was "working an angle." ECKERT acknowledged that the township committee discussed [REDACTED] pilot project in closed session. ECKERT did not sense that [REDACTED] and CHIEF NUCERA did not get along.

[REDACTED]

GA003

282A-NK-2108117

Continuation of FD-302 of (U) COLLEEN MARIE ECKERT, On 03/06  
/2017, Page 4 of 5

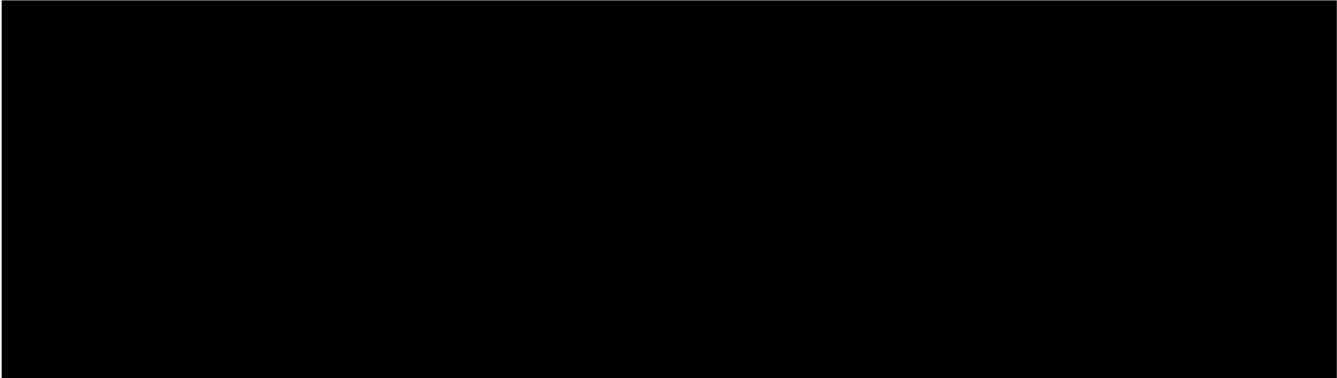
ECKERT stated, "He(CHIEF NUCERA) told me that there was an incident at the Ramada." ECKERT was told by CHIEF NUCERA that SHAUN MOUNT got hurt. When ECKERT learned that CHIEF NUCERA was retiring things did not make sense to her. ECKERT talked to CHIEF NUCERA. CHIEF NUCERA mentioned the Ramada incident and that he was screaming at the mother. CHIEF NUCERA told ECKERT that there were some racial things said and that if he did not retire then he was going to be brought up on charges. ECKERT indicated that CHIEF NUCERA's explanation still did not make sense to her. ECKERT asked CHIEF NUCERA if he hit anyone to which CHIEF NUCERA replied that he did not. ECKERT did not believe that it made sense that CHIEF NUCERA would have to retire just because he was yelling at someone. CHIEF NUCERA claimed that they wanted to make sure he was not running a rogue agency.

FD-302a (Rev. 05-08-10)

282A-NK-2108117

Continuation of FD-302 of (U) COLLEEN MARIE ECKERT, On 03/06  
/2017, Page 5 of 5

The day of the Ramada incident, CHIEF NUCERA did not tell ECKERT about anything he did. The only thing CHIEF NUCERA told ECKERT was that SHAWN MOUNT was going to be okay after hurting his back.



GA005



## FEDERAL BUREAU OF INVESTIGATION

Date of entry 08/23/2017

COLLEEN ECKERT, date of birth, [REDACTED], [REDACTED], was advised of the identities of the interviewing agents and the purpose of the interview. ECKERT was interviewed at the United States Attorney's Office located in Trenton, New Jersey. Assistant United States Attorneys Sarah Wolfe and Molly Lorber participated in the interview. Also present for the interview was ECKERT's legal representative, Katherine D. Hartman, Esquire, 68 East Main Street, Moorestown, New Jersey, 856-235-0220. ECKERT was provided with an advice of rights form by AUSA Lorber which was read aloud to ECKERT by her attorney Katherine D. Hartman. ECKERT agreed to continue with the interview and she provided the following information:

ECKERT, Bordentown Township Municipal Clerk, FRANK NUCERA JR., Bordentown Township Police Chief, and DAVE KOCIAN, Bordentown Township Chief Financial Officer, was the administrative team that shared the responsibilities of Bordentown Township Business Administrator. This arrangement began in May 2010 or June 2010. NUCERA JR. was responsible for personnel matters. ECKERT was responsible for the committee meeting agendas and she also prepared the resolutions and ordinances. KOCIAN dealt with the township budget, bank accounts, and audits.

ECKERT's positions currently and prior to being asked to be one third of the administrative team acting as the business administrator are as the municipal clerk, registrar, and deputy tax collector.

ECKERT's career at Bordentown Township began with her start in June 1996 as a clerk/typist. In February 1997 she was named deputy municipal clerk and sometime in 1999 she was named municipal clerk and registrar. ECKERT graduated from high school in Florence, New Jersey in 1993.

Investigation on 08/16/2017 at Trenton, New Jersey, United States (In Person)

File # 282A-NK-2108117

Date drafted 08/22/2017

by Vernon I. Addison, DURRANT III ARTHUR E

282A-NK-2108117

Continuation of FD-302 of (U) COLLEEN ECKERT

On 08/16/2017, Page 2 of 5

NUCERA JR. duties as the business administrator included being the appointing authority for Civil Service hires. NUCERA JR. had knowledge of the Civil Service's rules and regulations.

ECKERT explained that she, NUCERA JR., and KOCIAN worked as a team to get the job done. ECKERT handled contracted professionals but NUCERA JR. would assist her if she needed help. KOCIAN would stick to handling finances and the budget.

[REDACTED] ECKERT acknowledge that she and NUCERA JR. used the racial slur "NIG" (a shortened form of the racial slur nigger) during conversations about real estate developer [REDACTED] ECKERT claimed that at no other time did she hear NUCERA JR. use the racial slur "NIG" or nigger.

ECKERT claimed, "(NIG) wasn't even used in a derogatory sense." ECKERT said that it was meant as a joke. ECKERT stated, [REDACTED] never did what he was supposed to do in accordance to the redevelopment agreement. He [REDACTED] was shady." ECKERT reiterated that the use of the racial slur towards [REDACTED] was used in a joking manner. ECKERT could not explain what the joke was in regards to her and NUCERA JR.'s use of a racial slur.

ECKERT indicated that she was not surprised by NUCERA JR.'s use of the racial slur "NIG." ECKERT commented, "I hear it all the time on Sirrus when I listen to hip hop(rap music). ECKERT acknowledged that she heard NUCERA JR. use the ethnic slur "TOWEL HEAD" in a general sense but she had

GA007

282A-NK-2108117

Continuation of FD-302 of (U) COLLEEN ECKERT

On 08/16/2017, Page 3 of 5

not heard NUCERA JR. direct the ethnic slur at a particular person. ECKERT believed the ethnic slur "TOWEL HEAD" was directed towards people of Indian or Arab descent. ECKERT went on to say it was directed at "whoever wears the turban."

282A-NK-2108117

Continuation of FD-302 of (U) COLLEEN ECKERT

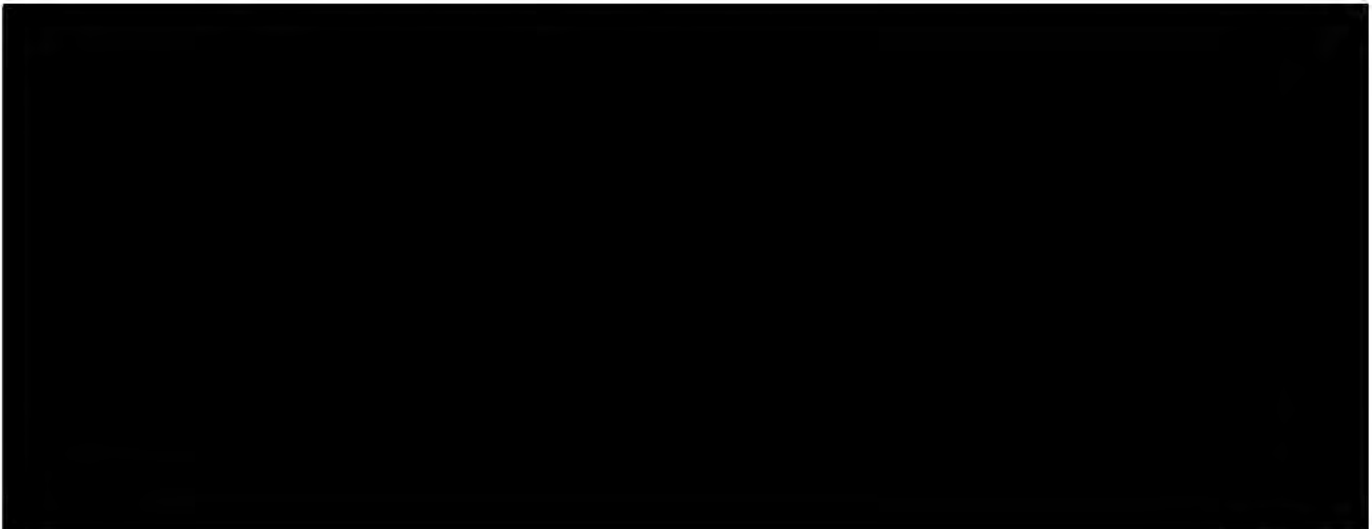
On 08/16/2017 , Page 4 of 5

ECKERT advised that she spoke with NUCERA JR. on January 11, 2017 after he announced his retirement. ECKERT recalled the date because she had to take off from work due to someone stealing four thousand dollars from her bank account. A special meeting was called by Bordentown Township Attorney EILEEN FAYE for the Bordentown Township Committee to discuss NUCERA JR.'s retirement. The committee meetings usually consisted of the five committee members, the municipal clerk, and the township attorney.

ECKERT's reaction to NUCERA's retirement was "why, what was going on." NUCERA JR. did not elaborate. He told her that something happened at the Ramada in the fall. NUCERA JR. told her that some things were said. ECKERT stated, "He did say that they were comments that he made." ECKERT also stated, "He told me about that incident in the fall when it happened." Back in the fall, NUCERA JR. told ECKERT that the incident involved SHAWN MOUNT getting hurt. At that time, ECKERT only asked how SHAWN(MOUNT) was doing. ECKERT stated, "I know whoever was involved was Black."

NUCERA JR. told ECKERT that he had to retire or he would be brought up on criminal charges. ECKERT claimed that when NUCERA JR. told her about SHAWN MOUNT getting hurt, NUCERA JR. did not make any racial comments about the incident.

ECKERT advised that she has talked with NUCERA JR. since being interviewed by the Federal Bureau of Investigation. ECKERT stated that she cares about NUCERA JR. as a friend and has talked with him approximately twelve times. NUCERA JR. continued to tell ECKERT that he had done nothing wrong aside from embarrassing the Bordentown Township Police Department and Bordentown Township. NUCERA JR. made this claim after ECKERT asked him if he was okay.

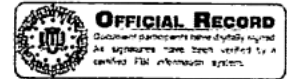


282A-NK-2108117

Continuation of FD-302 of (U) COLLEEN ECKERT , On 08/16/2017 , Page 5 of 5



ECKERT stated that NUCERA JR. used the racial slur "NIG" in front of and during conversations with Bordentown Township Chief Financial Officer DAVE KOCIAN during conversations about [REDACTED]. KOCIAN also used the racial slur "NIG" to reference [REDACTED]. ECKERT indicated that the racial slur "NIG" was used more than once in regards to [REDACTED].



## FEDERAL BUREAU OF INVESTIGATION

Date of entry 03/10/2017

ERICH RICHARD HESS, date of birth, [REDACTED], social security number, [REDACTED], home address, [REDACTED] [REDACTED] [REDACTED] cell phone number, [REDACTED], was advised of the identities of the interviewing agents and the purpose of the interview. HESS provided the following information:

HESS has been employed by the Bordentown Township Police Department as a police officer since 03/10/2008. He is currently assigned to the patrol bureau. Prior to becoming a police officer, HESS worked for the Burlington County Department of Health for 5 years. HESS has a degree in environmental science from Kutztown University.

HESS stated, "He disgraced that" referring to CHIEF FRANK NUCERA JR. disgracing the title of chief. HESS stated that he and CHIEF NUCERA are not friends. HESS described working with CHIEF NUCERA as producing paranoia due to the fact that CHIEF NUCERA had gotten rid of several officers.

HESS heard about the incident at the RAMADA HOTEL. HESS heard that CHIEF NUCERA banged the head of a suspect off of the door jam. HESS was working that day but was at the station after transporting a suspect that Sergeant ROOHR had arrested. Two people were arrested at the RAMADA HOTEL and transported to Bordentown Township Police headquarters. HESS could not fully recall but he believed that he may have been relieved before any arrestees from the RAMADA HOTEL were brought to the police station. HESS stated that his main concern was for Lieutenant MOUNT. HESS acknowledged that he did not hear about CHIEF NUCERA's actions at the RAMADA HOTEL until shortly before the FBI investigation or at the beginning of the FBI investigation. HESS commented that he does not ask too many questions but he could see CHIEF NUCERA doing what was alleged. HESS heard that CHIEF NUCERA yelled at TERRI LNU, the manager at the RAMADA HOTEL. CHIEF NUCERA was using phrases like, "these people." HESS believed that the phrase was derogatory towards a particular group of people.

HESS indicated that the police station has one cell area and a bench area to restrain suspects.

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Investigation on 02/23/2017 at Roebling, New Jersey, United States (In Person)

File # 282A-NK-2108117-ELA

Date drafted 03/07/2017

by Vernon I. Addison, DURRANT III ARTHUR E

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GA011

FD-302a (Rev. 05-08-10)

282A-NK-2108117-ELA

Continuation of FD-302 of (U) ERICH RICHARD HESS, On 02/23/2017, Page 2 of 5

Officers in the police department joked that CHIEF NUCERA was bipolar because he frequently went off on rants of profanity, demeaning comments, brow beating, and yelling.

HESS recalled an incident with a kid named [REDACTED]. [REDACTED] was a big kid and he would fight at school. HESS was the school resource officer(SRO) at the time and had completed "station house adjustment" with [REDACTED]. HESS stood up to [REDACTED] which help him gain [REDACTED] respect. Officers were refueling their police vehicles at the pumps near the middle school. [REDACTED] believing he was being watched, began yelling at the officers but specifically a female officer. The female officer called for help. HESS responded to the scene and was able to calm [REDACTED] down. CHIEF NUCERA and his son Sergeant FRANK NUCERA III rolled up and began cursing and pointing their fingers at [REDACTED]. This escalated the situation and caused [REDACTED] to become angry. CHIEF NUCERA threatened to lock up [REDACTED].

Approximately three years ago, HESS responded to a call of two vehicles racing on the border between Chesterfield Township and Bordentown Township. CHIEF NUCERA was in the area of the high school at the time. HESS had a vehicle, similar to the one described in the call, pass him. CHIEF NUCERA radioed that the vehicle crashed. When HESS got to the scene, CHIEF NUCERA had the driver at gun point. The driver was only 18 or 19 years old. CHIEF NUCERA's gun was pointed at the kid who was laying face down on the ground. HESS advised that he never considered whether CHIEF NUCERA caused the kid's vehicle to crash until he was asked by the FBI.

Sometime around election time, HESS was working a PSE&G detail with CHIEF NUCERA. By this time, officers had begun recording CHIEF NUCERA. CHIEF NUCERA hinted that "they(BLACK PEOPLE)" would not like when (DONALD) TRUMP gets in office. CHIEF NUCERA stated that TRUMP would be taking away "free rides" like welfare.

HESS acknowledged that he heard stories about CHIEF NUCERA using the "N" word. Sergeant ROOHR heard CHIEF NUCERA say it but HESS never heard CHIEF NUCERA say it. CHIEF NUCERA did make negative remarks about Middle Eastern people.

HESS recalled an incident, possibly in 2013, involving Sergeant NUCERA. The incident was a car stop involving two women on Route 130 during which Sergeant NUCERA said he had a fight occurring. The driver and passenger were fighting one another. HESS saw the dash camera video which showed Sergeant NUCERA giving a "flying elbow" to one of the women. Sergeant NUCERA was proud of what he did. The woman suffered a possible laceration to her head from Sergeant NUCERA's elbow causing her to hit the asphalt(ground).

GA012

282A-NK-2108117-ELA

Continuation of FD-302 of (U) ERICH RICHARD HESS, On 02/23/2017, Page 3 of 5

Lieutenant MOUNT recently said that he found five internal affairs cases sitting on CHIEF NUCERA's desk. The cases were against Sergeant NUCERA and the disposition for each case was sustained. Each case needed to be approved within 45 days for discipline otherwise the cases would be voided. It was unclear if CHIEF NUCERA took the appropriate action.

HESS advised that he has a close relationship with Sergeant NATE ROOHR. During the summer of 2016, Sergeant ROOHR told HESS to start documenting his interactions with CHIEF NUCERA which HESS did. HESS indicated that on his own, beginning on 12/11/2014, he began documenting CHIEF NUCERA's actions using his phone. HESS documented an improper look-up on CJIS requested by CHIEF NUCERA. He documented that CHIEF NUCERA was working an off duty overtime detail at the PETRO TRUCK STOP and asked HESS to look-up a registration plate on a vehicle that was parked at the PETRO TRUCK STOP.

HESS was the Bordentown Police Department's first SRO. HESS commented that he was not allowed to carry his firearm on his side because CHIEF NUCERA wanted him to use an ankle holster. CHIEF NUCERA also required HESS to use his benefit time when the students were off from school. HESS recalled CHIEF NUCERA yelling and cursing at him for being in the SRO office working on a day when the students were off from school. CHIEF NUCERA told HESS to get to the police station and work court matters.

HESS recalled a 2009 incident from his notes. HESS went by the Bordentown Township garage and observed GEORGE LNU and STANLEY LNU swapping an engine and transmission from a State of New Jersey car into a Bordentown Township police car. This occurred possibly on a Sunday. The bad engine and transmission came from the police car and was put into the state car. The state car came from the state auction in Ewing, New Jersey and was being returned to the auction so it could be sold with the bad engine and transmission. STANLEY LNU has stripped alternators and other parts out of state cars for use in Bordentown Township police cars. Recently, GEORGE LNU told HESS that he has swapped out engines and transmissions from state cars for use in Bordentown Township police cars dozens of times.

HESS explained that road details are often on duty overtime details. HESS also indicated that he filled out an on duty overtime slip because he worked a detail at the Northern Burlington Regional High School. HESS acknowledged that he worked at N.A.D. in plainclothes and upon finishing, he had to change back into his uniform. HESS never worked overtime at the State of New Jersey auction in Ewing, New Jersey.

HESS commented, "As long as I wrote tickets, he(CHIEF NUCERA) was okay with me."

HESS recalled what occurred in November, 2016, after he called out sick

FD-302a (Rev. 05-08-10)

282A-NK-2108117-ELA

Continuation of FD-302 of (U) ERICH RICHARD HESS, On 02/23/2017, Page 4 of 5

the day before Veteran's Day. HESS realized that his pay was short. HESS contacted DONNA MOLADRO (PHONETIC) and asked why his pay was short. She pulled his time sheet which explained via a note that HESS had violated a standard operating procedure (SOP). HESS went to see CHIEF NUCERA, who knew he was coming. CHIEF NUCERA pulled out a highlighted copy of the SOP regarding the need to get a doctor's note. HESS told CHIEF NUCERA that he would get a doctor's note. HESS complained that the pay mistake was close to his wages being "garnished." HESS walked out of the meeting with CHIEF NUCERA.

Later that evening when HESS came back to work, Sergeant ROOHR told him that CHIEF NUCERA wanted to see him. HESS decided to record the meeting with CHIEF NUCERA. CHIEF NUCERA had a "write up" sheet in one hand and a pay check in his other hand. CHIEF NUCERA wanted him to sign the "write up" sheet in order to get the rest of his pay check. HESS played the recorded meeting with CHIEF NUCERA for the agents. HESS advised that he recorded six conversations with CHIEF NUCERA.

HESS described Detective Sergeant SAL GUIDO and his relationship with CHIEF NUCERA by saying, "No beefs but more like a yes man." HESS commented that he always thought Sergeant ROOHR was a "yes man" but after Sergeant ROOHR talked to him about recording CHIEF NUCERA, he realized "he (ROOHR) was just playing the game to get Frank." HESS described the game as not being adversarial with CHIEF NUCERA. HESS also described Sergeant ROOHR as a good officer willing to do the right thing.

CHIEF NUCERA required tickets. Forty-five would keep an officer in good standing with CHIEF NUCERA. Sergeant ROOHR was told by CHIEF NUCERA that he wanted traffic violations written up not warnings being given. HESS recorded a conversation with Sergeant ROOHR that was about something Sergeant ROOHR was told by CHIEF NUCERA. HESS played the recording for the agents.

CHIEF NUCERA was recorded discussing his request to have tickets written for violations at the Route 206 and New Jersey Turnpike connection. HESS played the recording for the agents.

HESS recalled a mutual aid call for a fight in Roebling, New Jersey. CHIEF NUCERA and HESS drove up next to one another and CHIEF NUCERA said that kind of call would not have happened in Bordentown Township because he would have stopped every car entering Bordentown Township and figured out why they were in the township later.

HESS recalled a fight that occurred at the PETRO TRUCK STOP while CHIEF NUCERA was at the police station talking to BRUCE HILL. CHIEF NUCERA was supposed to be working the off duty overtime detail at the PETRO TRUCK STOP

GA014

282A-NK-2108117-ELA

Continuation of FD-302 of (U) ERICH RICHARD HESS, On 02/23/2017, Page 5 of 5

at the time of the fight. The victim of the fight went into cardiac arrest several times while being transported in an ambulance. HESS commented that CHIEF NUCERA's actions did not sit well with him. HESS advised that he called the Burlington County Prosecutor's Office to file a complaint. HESS spoke with Detective JOHN MECUM(PHONETIC). Detective MECUM(PHONETIC) wanted HESS to come in and provide a written statement. HESS told Detective MECUM(PHONETIC) that he gave them everything they needed to investigate. HESS did not want to provide a written statement due to his fear of retaliation.

Sergeant FRANK NUCERA III is a hot head and he likes to throw his weight around. Sergeant NUCERA is arrogant all of the time. HESS advised that he just ignores Sergeant NUCERA for the most part. HESS wonders how the other officers can trust Sergeant NUCERA moving forward and how it could be possible that he did not know everything that his father, CHIEF NUCERA, was doing. Sergeant NUCERA recently yelled at Officer RYAN FORSTER regarding a traffic detail schedule that Sergeant NUCERA was putting together. Officer FORSTER did not call Sergeant NUCERA back therefore Sergeant NUCERA scheduled Officer FORSTER's days off without his input. The argument was heated. Officer FORSTER called Sergeant NUCERA "FRANKIE" and Sergeant NUCERA responded by telling Officer FORSTER to only refer to him as Sergeant NUCERA. When Officer FORSTER tried to walk away, Sergeant NUCERA told him that he was not dismissed. HESS advised that he does not trust Sergeant NUCERA.

HESS allowed the FBI to download a file labeled, "Frank Nucera Jr. Documentation" from his laptop computer to a USB drive. The file contained audio recordings, screenshots, and documents. HESS also provided 15 pages of his notes.



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## FEDERAL BUREAU OF INVESTIGATION

Date of entry 02/22/2017

**BRIAN VINCENT PESCE**, date of birth [REDACTED], social security account number [REDACTED], of [REDACTED], was interviewed inside the Federal Bureau of Investigation (FBI), Newark Division, Trenton Resident Agency (TRA), on Tuesday, 02/07/2017, by Special Agent (SA) Vernon I. Addison and SA Arthur E. Durrant, III, FBI. PESCE provided the following information:

In or around 1998, PESCE was hired as a police officer by the Bordentown Township Police Department (BTPD). In or around 2000, PESCE was detailed to the Burlington County Prosecutor's Office (BCPO) to work drug investigations. In or around 2001, PESCE returned to the BTPD and was promoted to Detective and assigned to the Detective Bureau. In or around 2003, PESCE was promoted to Sergeant. In or around 2009 or 2010, PESCE was promoted to Lieutenant. In the Summer of 2015, PESCE was promoted to his current rank of Captain. Former BTPD Police Chief FRANK NUCERA, JUNIOR (NUCERA) recently retired. PESCE is currently in charge of the BTPD until a new police chief is appointed.

PESCE has known NUCERA for many years. NUCERA yelled and used profanity. NUCERA yelled at citizens and police. NUCERA used racial slurs when talking about citizens. PESCE knows there are allegations of excessive force by NUCERA. PESCE believes NUCERA had the tendency to "reignite everything" when he arrived on a scene usually because of the way he talked to people.

In or around 2001, PESCE was a detective and set up a "drug rip" to occur in the area of ShopRite in Bordentown. There was a "mini pursuit" and LARRY DRIVER (phonetic) and his girlfriend were ultimately arrested. NUCERA was not involved in the operation. However, he was working an off duty, overtime assignment at the ShopRite. NUCERA reportedly witnessed DRIVER attempt to flee and he intervened as well. NUCERA allegedly threw his flashlight at DRIVER's windshield. EVAN JONES was a police officer involved in the arrest. JONES reportedly witnessed NUCERA "kick the guy or something." PESCE did not witness the alleged assault because he was not in a position to see it. JONES filed a complaint with the BCPO against NUCERA. The matter was investigated by Lieutenant DEBBIE LIGHTENBURGER (phonetic) at the BCPO. PESCE and other BTPD police officers were interviewed. NUCERA was not charged with any criminal or administrative charges. JONES

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Investigation on 02/07/2017 at Hamilton, New Jersey, United States (In Person)File # 282A-NK-2108117Date drafted 02/10/2017by DURRANT III ARTHUR E, Vernon I. Addison

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GA016

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282A-NK-2108117

(U//FOUO) BRIAN V. PESCE interview on 02/07/2017. Page 2 of 7  
 Continuation of FD-302 of 02/07/2017. ~~subsequently took a disability pension possibly related to mental health~~  
 problems. PESCE considered JONES to be a honest person and a good police officer. JONES was a K9 officer and the police union president.

In or around the Fall of 2016, Lieutenant MOUNT arrested a female in court for disorderly conduct. The female was brought down to the police station in handcuffs. She was yelling and was uncooperative. NUCERA came out of his office and grabbed the female. He yelled at PESCE to "get more involved." NUCERA then directed the officers to handcuff the woman to a bench with her arms extended away from her body. She looked like "she was on a cross." The woman knelt down with her wrists handcuffed and extended and cried. She "looked like she was in crisis." PESCE walked into NUCERA's office and told him that he was going to take the woman to a hospital or crisis center. NUCERA allowed PESCE to have the woman taken to a crisis center. PESCE thought NUCERA should have recognized that the woman was in "crisis." PESCE does not know what happened to the woman but she did not file a complaint against any of the police officers.

PESCE thinks NUCERA doesn't believe in "verbal judo." Instead, NUCERA orders people and makes people do what he wants by force. NUCERA "demeans people" and is "nasty to the public."

PESCE is aware of an incident at the Ramda Inn involving NUCERA in or around September of 2016. PESCE was not there so he did not witness the incident. TERRY COWEN, the manager of the Ramada Inn, "texted" or called PESCE. COWEN and PESCE had been friends for years and she provided him and other police officers with great intelligence about criminal conduct at the Ramada Inn. COWEN told PESCE that NUCERA was "mean" to her. PESCE apologized for NUCERA's conduct.

BTPD Police Sergeant ROOHR then made an allegation of excessive force against NUCERA at the same incident at the Ramada Inn. ROOHR came to discuss the matter with PESCE no more than a week after the occurrence. ROOHR told PESCE that NUCERA was combative and condescending to the family of the suspect. ROOHR said NUCERA pushed the male suspect's head into a door jam. ROOHR said it was "totally unnecessary and unwarranted." ROOHR said the suspect complained of a possible concussion. ROOHR also told PESCE that he had been recording conversations with NUCERA. He said NUCERA used racial slurs. NUCERA reportedly made comments to ROOHR such as "sick the dogs on those people" and "I could just shoot one of these people." ROOHR appeared disturbed by the event. PESCE said, "It was obvious the incident bothered him." PESCE suggested that ROOHR consider filing a formal complaint and bring forth all of the allegations of misconduct he had. PESCE then started to work on addressing all allegations about NUCERA.

When queried by SA Durrant about how PESCE felt when he learned about

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282A-NK-2108117

(U//FOUO) BRIAN V. PESCE interview on

Continuation of FD-302 of 02/07/2017. On 02/07/2017 Page 3 of 7

~~ROOHR recording conversations with NUCERA, PESCE stated he viewed it as a~~  
 "last resort." PESCE said, "I was sympathetic."

PESCE believes no one knows ROOHR filed a complaint against NUCERA and no one knows that ROOHR recorded his conversations with NUCERA. PESCE asked for ROOHR's tapes with NUCERA on the evening at the Ramada Inn. NUCERA told PESCE that he met with the Bordentown Township Mayor and learned that there was an allegation against him. NUCERA told PESCE he thought the suspect's aunt taped him while he was going off on one of his "rants." NUCERA also referred to his statements as "dinner time conversation."

PESCE knew NUCERA used insensitive rhetoric racial slurs. He commonly used "you people" or "those people" when speaking about black people. PESCE recalled that Bordentown Township High School (BTHS) had a good basketball team. BTHS played Willingboro High School (WHS). PESCE was sitting at his desk and NUCERA said words to the effect of, "We're going to have dogs working that night because those people don't like dogs." PESCE thought WHS had a predominantly black team and he understood "those people" to mean black people. PESCE thought that was common rhetoric for NUCERA. NUCERA had stereotypes and he verbalized them. For example, NUCERA would say, "Indian people smell" and "Black people don't like dogs."

PESCE has heard NUCERA use the words "nigger" and "moulinyan" to refer to a black person. He has heard him use the words "towel heads" to refer to people of Indian descent. PESCE has heard NUCERA use the words "faggot" and "spics." PESCE recalled NUCERA used to say that the NJ Department of Motor Vehicles (DMV) was run by "towel heads" because it seemed to NUCERA that many Indian people worked there.

When queried by SA Durrant as to why PESCE did not take any action to report NUCERA's conduct, PESCE stated he was "petrified of the guy." NUCERA "had all the power" and he "held all the cards." NUCERA had ended the careers of other police officers who disagreed with him. An anonymous letter went to the Bordentown Township Committee describing how NUCERA was a bully and created a hostile work environment and nothing happened to NUCERA.

NUCERA never had any criminal or administrative complaints substantiated by the BCPO. For example, in or around 2009, a complaint letter was submitted to the BCPO about NUCERA for allegations involving overtime. Lieutenant LIGHTENBURGER and PESCE met and discussed the allegations. She made verbal recommendations for PESCE to discuss with NUCERA. NUCERA did not adopt any of the recommendations. NUCERA would sometimes say, "Fuck the county."

The NJ Attorney General's Office (AGO) has guidelines that police

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282A-NK-2108117

(U//FOUO) BRIAN V. PESCE interview on

Continuation of FD-302 of 02/07/2017. On 02/07/2017 Page 4 of 7  
~~officers in NJ are supposed to adhere. NUCERA always said they were "mere~~  
 recommendations." For example, NUCERA was "totally against body cameras" on  
 police officers. NUCERA determined when BTPD officers could activate and  
 deactivate the recording devices.

The NJ AGO conducted a criminal investigation of NUCERA for allegations  
 of billing fraud. The case agent at the NJ Division of Criminal Justice,  
 TONY LUBER, reportedly said the case was closed without any criminal  
 charges against NUCERA "for political reasons." LUBER is presently an  
 investigator with the BCPO. PESCE and other police officers "lost faith."

Former BTPD police officer [REDACTED] wanted to address the problems  
 with NUCERA. [REDACTED] was forced to retire for a medical reason. NUCERA sent  
 former BTPD [REDACTED] to a doctor for a mental evaluation after  
 they had a disagreement.

There were also rumors in the past couple of years that NUCERA was going  
 to retire from the police department. BTPD officers were hoping that he  
 would just retire. ROOHR made his complaint and decided to put "pen to  
 paper." PESCE packaged everything together. PESCE was supposed to present  
 the allegations to the BCPO on 11/18/2016 when SA Addison contacted him.  
 PESCE did not feel he was responsible for investigating NUCERA. His  
 priority was packaging the allegations and submitting them to the county.  
 PESCE "was scared" of NUCERA himself.

PESCE recalled that FIRST NAME UNKNOWN (FNU) PENNIX (phonetic)  
 complained about NUCERA. PENNIX was at the Best Western Hotel in Bordentown  
 Township. NUCERA responded to the Best Western one day and reportedly said  
 "you people" to PENNIX who is black.

When queried by SA Durrant about positive information about NUCERA,  
 PESCE said that NUCERA was "not all bad." PESCE thought NUCERA "loved"  
 Bordentown Township. NUCERA was, at times, "compassionate." NUCERA paid for  
 a hotel room for a woman whose house was destroyed by fire. NUCERA did not  
 appear to be comfortable in social situations. For example, NUCERA would  
 leave retirement events early.

PESCE also knows BTPD Police Sergeant FRANK NUCERA III (NUCERA III).  
 PESCE believes NUCERA III is a good police officer. He is proactive but he  
 has a quick temper and has received demeanor complaints. NUCERA III is a  
 "great guy to hang out with." PESCE has never heard NUCERA III use any  
 racial slurs. PESCE considers NUCERA III to be "salvageable."

NUCERA was also the Business Administrator for Bordentown township (BT).  
 NUCERA told PESCE he "ran the city like a business." NUCERA allowed very  
 little police overtime even though overtime was budgeted. NUCERA wanted

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GA019

FD-302a (Rev. 05-08-10)

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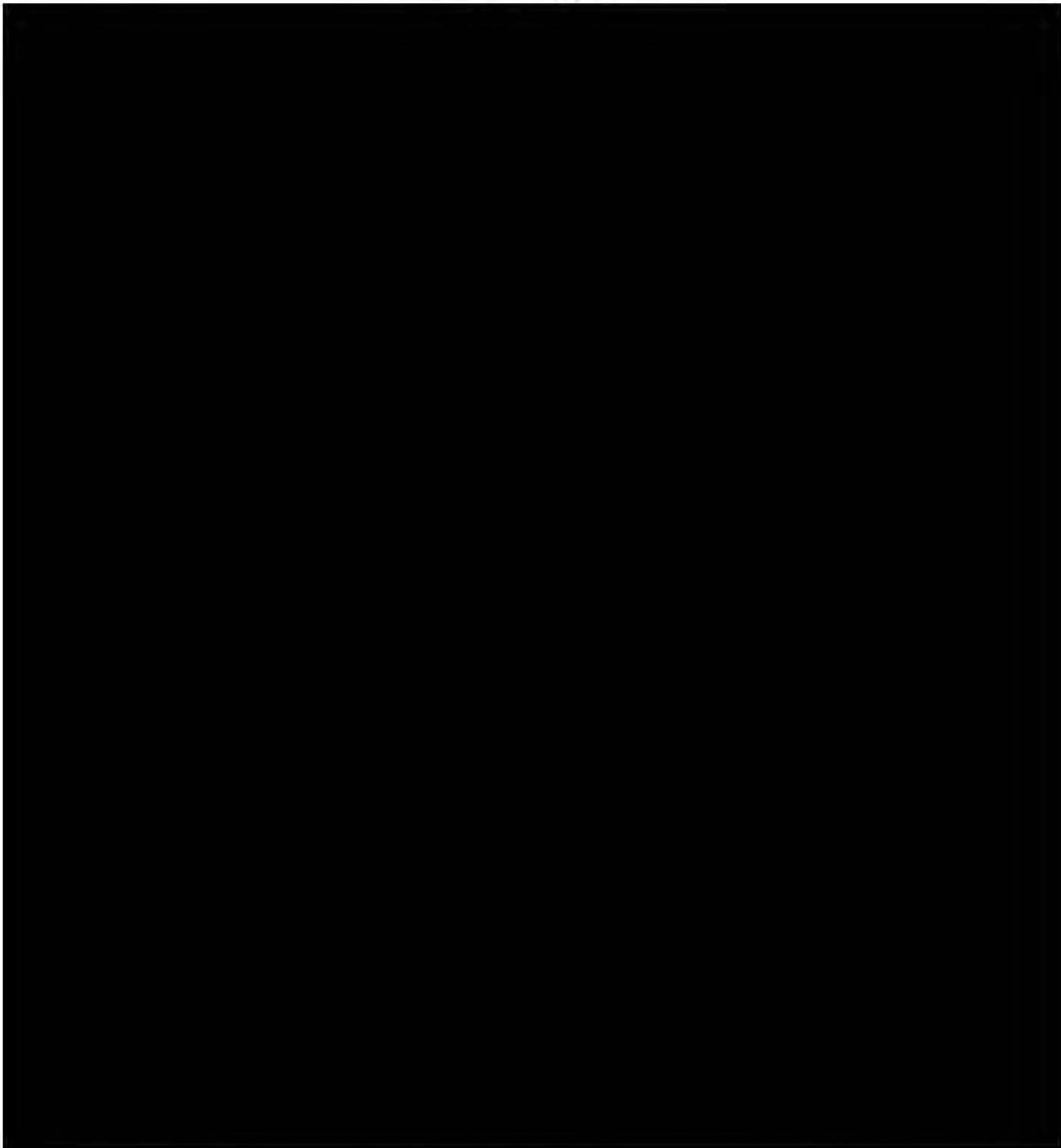


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GA020

FD-302a (Rev. 05-08-10)

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PESCE believes there is a BTPD policy which prevents police officers from talking to BT committee members without prior approval. PESCE believes a police officer would be questioned by NUCERA if a police officer attended a committee meeting.

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282A-NK-2108117

(U//FOUO) BRIAN V. PESCE interview on

Continuation of FD-302 of 02/07/2017. On 02/07/2017 Page 7 of 7  
~~PESCE recalled Fieldsboro chose Bordentown City Police Department (BCPD)~~

to serve as their police department. When NUCERA learned Fieldsboro chose BCPD instead of BTPD, NUCERA said words to the effect of, "Fuck them. Don't back Bordentown City." PESCE understood this to mean that NUCERA did not want any BTPD officers backing-up any BCPD officers on car stops or incidents. That order remained in effect until NUCERA retired.

NUCERA had some involvement in the BTPD hiring process. PESCE recalled that NUCERA wanted to hire a female officer. PESCE thinks NUCERA did not hire a police candidate because NUCERA was not happy with the candidate's brother, who was a committee candidate. VITO RENA wanted to become a BTPD officer. He was ranked number two on this list. PESCE thinks NUCERA "skipped" him because he did not like his brother.

NUCERA's cellular telephone was owned by and paid for by BT. NUCERA used telephone number [REDACTED]-0510. NUCERA would send blast emails to officers' cell phone numbers from his email address. NUCERA used the email address FNucera@BordentownTownshipPD.com.

If an officer used force to effect the arrest of a resisting subject, NUCERA would say words to the effect, "Fuck them. They got what they deserved."

Detective Sergeant SAL GUIDO was very afraid of NUCERA.

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GA022

This complaint is being filed on behalf of several Bordentown Township Police Officers who can no longer tolerate being subjected to racist behavior and hostile work conditions perpetrated by Chief Frank Nucera Jr.

It is the Township Committee's duty to thoroughly and objectively investigate all the allegations made in this complaint and should be reminded that Attorney General Guidelines mandate that all complaints of officer misconduct need to be investigated even those derived from anonymous sources. The officers who file this complaint have no desire to remain anonymous, however, and will cooperate with any formal investigation or administrative procedures undertaken by the Township.

The rank and file officers employed by Bordentown Township have always sought a harmonious relationship with the Township Committee. It is for that reason that a hostile work environment lawsuit has not yet been filed despite the overwhelming instances of intimidating, hostile and offensive conduct that officers have to deal with on a daily basis. If the Township Committee fails to take immediate action then these officers will have no recourse but to move forward with legal action.

The Chief's behavior is indefensible and not representative of this police department as a whole. This behavior has been occurring for some time but the Chief's role as acting Township Administrator, essentially his own boss, has failed to provide officers with a mechanism or counter-measure to report the abuse. Recent work-place harassment training provided to officers by the Burlington County Joint Insurance Fund has led us to understand that our jobs will not be in jeopardy for bringing these complaints to light and it is in fact our duty to do such.

### **EXAMPLES OF RACIST STATEMENTS/BEHAVIOR**

*The below examples are in no way a comprehensive list of racist acts committed by Chief Nucera and are merely a snapshot of the types of offensive rhetoric Officers are subjected to on a daily basis. Officers have been maintaining journals of all racist statements they have witnessed the Chief make and are prepared to testify about that complete history of prior bad acts in a civil trial or administrative law hearing.*

*Several of these incidents were audio recorded by officers which in no way violates any law or BTPD policy or procedure. NJ is a one-party consent state and the BTPD has no policy which prevents the taping of your co-workers. To the contrary the police department outfits its officers with dashboard cameras and body microphones to record unlawful behavior and the Chief previously had signs posted predominantly throughout the police department warning that audio and video recording was in use at all times. Finally all of these conversations were recorded while the Chief was on-duty, typically in full uniform performing police functions. This*

*is not "locker room talk" happening after hours but is representative of how the Chief behaves while at work on a regular basis.*

**Incident #1:**

On 1-30-2016 an Officer was ordered by Chief Nucera to drive through the Team 85 Campus to see if they were open and report back to him with my findings. On 1-31-2016 the officer responded into the Chief's office to advise him of his/her findings. The officer advised the Chief him that he/she observed the Team 85 Campus parking lot full for most of the day on Saturday with patrons coming in and out of the building. Chief Nucera then stated "I can't believe he did that, fucking nigger! I told Kevin he is crazy to let people work out on that equipment, because if they get hurt, he will get sued, and they will own it."

**Incident #2:**

On 3/5/16 the Bordentown Regional High School Boys' Basketball team played Willingboro in a Central 2 semifinal game at Bordentown Regional High School. This was anticipated to be a well-attended event with numerous spectators from both schools attending. The Chief, who is responsible for filling requests for off-duty security, told one of his officers that he would be sure to schedule several K9 officers to work this event because "those people" don't like dogs and would be more likely to behave if dogs were on location. The officer, who did not respond to this statement, interpreted it to mean that African-American spectators from Willingboro did not like dogs. The officer found this statement to be discriminatory and offensive.

**Incident #3:**

**Marked on disk as recording #5**

On 4-30-2016 while working an outside employment detail at the Bordentown Regional High School an officer was having a conversation with Chief Nucera in the main office about the drug addiction epidemic in the US. During this conversation he made the following statements:

29:20

"Here's the real deal, this is what gets me, we had the gays and lesbians that want to fuck each other in the ass and they come up with AIDS. The government spent tons of money on AIDS ok, it's whatever is in the lime light. Ok so if they want to push that we are going to lose an entire generation, then they will spend money on some type of treatment. I understand just like being gay and lesbian is a fucking choice, so is doing drugs a choice. You spend all this money so they can fuck each other in the ass, what are you going to do with the kids on drugs?"

36:00

"I went to fucking Verizon today, one white guy, four fucking Indians working, what the fuck"

43:00

"All the fucking towel head countries are taking it on the chin, they are having their own recessions."

45:40

"Once the fucking Indians get in, and once there born and bred here they can get in, once they get in we will be completely fucked, because they will take care of their own. A white fucking American will be fucked."

#### **Incident #4:**

On 7-17-2016 at approximately 1405 hours Chief Nucera called an Officer into his office and asked how his/her vacation was. The officer advised him that he/she had a great time camping with his/her family and asked the Chief if he had been away as well since the Officer hadn't seen him in a few days. He replied "I wasn't on vacation, well I was in DC on Friday, I got invited to the Whitehouse, me and about seventy-five other police chiefs, I even got to see the president." The Officer asked if he met Philadelphia Police Chief Charles Ramsey and asked what he thought of him? Chief Nucera said he's ok look he gave us a box of candy, then the Chief pointed to a small decorated box of candy placed on the front of his desk. He then stated "They had this other guest speaker, you know, a real nigger, who spoke about equality, and how if a white person goes to the bank for a loan he may get a 2% interest rate and a black person with the same credit goes to the same bank for the same loan they may get 4%, I thought, that's not my fucking problem, go to the fucking banks and ask them why they do that! Then they were talking about community policing and dedicating more officers to community policing, and I asked who's going to pay for it, and the feds say they got no money, it falls on the municipality, it's all bullshit, they want you to do this, they want you to do that, but they don't want to give up any money.

During this conversation another officer who is African-American was in the station processing an arrest and it is possible that he may have overheard Chief Nucera's racial slurs.

#### **Incident #5**

##### **Marked on disk as recording #9**

On 7-20-2016 an Officer received a call from Chief Nucera regarding a wedding that had been held in the courtroom attended by numerous Indian-Americans. The Chief stated:

I just got a call that there is food trash all over the parking lot where the employee's park. The judge had a wedding today and it looked like the United Nations up there. If they threw trash onto the ground, they are getting charged. I know what the people look like from the wedding, I'll get court to verify it and then I'm going to send them an ordinance violation for littering.

**Incident #6:**

**Marked on disk as recording #25**

On 9-1-2016 after the arrest of a juvenile black female (TM) and 18 year old black male [REDACTED] at the Ramada Inn, Bordentown Township Police case#2016-6065, Chief Frank Nucera Jr. Badge#3200 made the following statements in his office in the Bordentown Township police station located at 1 Municipal Drive Bordentown NJ.

28:05 [REDACTED] stated, "I think I have a concussion, so can you call somebody?" An Officer asked where he had pain and [REDACTED] replied my head, my back, my shoulder and my eye. The Officer immediately had an ambulance dispatched to treat Mr. [REDACTED]

39:28 The Officer advised Chief Nucera that he called for EMS since Mr. [REDACTED] complained of head pain. The Chief replied good, he's lucky that's all he got.

42:00 Female EMS personnel stated to the Officer and Chief Nucera, I told him it's not going to delay the process of going to jail and he still wants to go to the hospital. His lungs are clear, I mean his face is swollen, he has mace on him it's probably the issue.

50:15 Chief Nucera said to an Officer I'm fucking tired of it man, I'll tell you what it's getting to the point where I could shoot one of these mother fuckers and that nigger bitch lady, she almost got it. Get back, I'm her aunt, I said get back, don't yell at me, I'm telling you you're getting close to getting thrown on the fucking floor too, get back, that's my niece. I said I don't care who the fuck it is, get fucking back, don't yell at me, one more time. Fucking nipple hanging bitch, I'm so tired of it man.

I'm telling you, you know what, I'm going to tell you, Donald Trump is the last hope for white people, because Hillary will give it all to minorities to get a vote, that's the truth, I'm telling you, I think about it more and more.

He is, he's the last hope for the fucking white people, because she got all the seven mother's at the Democratic National Convention saying the police killed my kids.

The fucking guys, the father for the guy at the Orlando Night Club was sitting in the audience. She'll sell the vote to whoever she can, Guatemalan's, Russian's, Nicaraguan's, spics, blacks, you

name it. He's the last hope for the white people. I'm telling you, I'm telling you, I've been thinking about it more and more.

52:20 These fucking people, where they from? There from Trenton, stay the fuck out of Bordentown. Now you can go home and tell em, if you go to Bordentown, I'll just. You know what it would have been nice if that dog could have come up. They would have stopped quick then. That fucking dog, that dog would have stopped anything right then and there. (Chief Nucera making barking sounds). I'm telling you, you'd of seen two fucking niggers stop dead in their tracks. I love that, when they do that, I luuvve that. It would have been nice they would have backed right off.

Same incident, separate recording. Following exchange marked as recording #27.

On 9-1-2016 Chief Frank Nucera Jr. backed an Officer up at an alarm activation at Jaron's Furniture on Rt. 206. After checking the exterior of the building and confirming it to be secure Chief Nucera pulled next to the Officer's patrol vehicle and made the following statements:

1:15 They just released Shawn (Lt. Mount), his backs fucked up, he's got to go to a specialist, and uh evidently this guy punched the shit out of his fucking kidneys, kidney, black and blue, it doesn't have any blood in it but, punched it pretty fucking good. Fucking little fucking nigger, he was built pretty stocky though. When you put cocoa butter on that skin and come out of the pool it's like trying to hold down a fucking snake.

The manager of the Ramada Inn, Terri Cowen, was apparently extremely upset with the way the Chief treated her during this incident and informed Officers that she filed a complaint with a Township Committee member. Cowen indicated that the Chief demeaned her at the scene and repeatedly said, "This is the type of clientele you rent to??" She interpreted this to be a racial statement and that the Chief was suggesting she shouldn't rent rooms to people of African-American descent. To the best of our knowledge this complaint was never addressed by the Committee with the Chief nor was an investigation initiated to ascertain if this was an isolated issue or part of a broader pattern of behavior.

#### Incident #7:

On 11-16-2015 an Officer was contacted by [REDACTED] who advised that he was pulled over on the Stanton Avenue extension with a flat tire on his patrol vehicle. The Officer responded to [REDACTED] location to evaluate the vehicle since he was unsure of the reason for the blown out tire. Upon inspecting the vehicle, the Officer observed that the vehicle had a one inch cut in the sidewall that was not consistent with running over debris. The Officer then contacted Chief Nucera and advised him of the possible criminal mischief to the patrol vehicle. Chief Nucera advised that they arrested a subject on night shift and he returned to BTPD headquarters

several times throughout the shift with questions and was unhappy with the officers who arrested him. The Officer was instructed by the Chief to contact our Public Works and have them respond and replace the tire. He next instructed the Officer to respond to headquarters to check all of the patrol vehicles for signs of criminal mischief. He then stated "If you find any damage, I'll have Sal watch the tapes, and if that little "Nigger" went near those vehicles, he is getting charged!" This Officer was standing in the vicinity of [REDACTED], who is African-American, when the Chief made this remark and was appalled by this racist statement.

The Officer then responded to headquarters and began checking the patrol vehicles for signs of criminal mischief. All of the vehicles appeared to be in good order with no signs that they were tampered with. Chief Nucera pulled up to the rear of headquarters at approximately 0825 hours and asked the Officer if he found any damage to the vehicles. The Officer advised him that none of the vehicles were damaged. He advised that he was going to have Sal review the security video to see if the individual tampered with [REDACTED] vehicle overnight.

Chief Nucera was visibly agitated, noting that his forehead was wrinkled and his face was red. He stated "I wish that nigger would come back from Trenton and give me a reason to put my hands on him, I'm tired of em. These niggers are like ISIS, they have no value. They should line them all up and mow em down. I'd like to be on the firing squad, I could do it. I used to think about if I could shoot someone or not, I could do it, I'm tired of it!"

The Officers informed his supervisors of the incident and advised them that he feared Chief Nucera would retaliate against him if he reported his conduct.

#### **Incident #8:**

On 11/2/16 a black male adult named Shuntell Penix responded to headquarters to file an internal affairs complaint against Chief Nucera. Mr. Penix advised that he was arrested for domestic violence assault following an incident with his girlfriend at the Best Western Hotel on 10/28/16 and was accused of throwing a fruit cup at her head. During the police investigation of the assault at the hotel he indicated that the Chief exhibited racist and hostile behavior towards him. Specifically he stated that the Chief made him feel like a "dunce" by making him stand on a circle in the parking lot and threatened to arrest him if he moved from that circle. He added that the Chief was enraged during the incident and got into Penix's face and yelled at him so close that spit came from the Chief's mouth onto his face. Finally Penix indicated that the Chief told him "I'm so tired of you people" which he immediately interpreted to be a racist statement. Penix advised that the Chief's behavior was so offensive that he cried during the incident. An Officer who was at the scene with the Chief was interviewed and confirmed Penix's account and substantiated that he heard the Chief make the "I'm so tired of you people" remark.

### **HOSTILE WORK ENVIRONMENT EXAMPLES**

*The below examples are in no way a comprehensive list of hostile acts committed by Chief Nucera against police department employees and are merely a snapshot of the types of treatment Officers endure on a daily basis. Officers have been maintaining journals of mistreatment they have witnessed or have been committed against them and are prepared to testify about that complete history of prior bad acts in a civil trial or administrative law hearing.*

#### **Example #1:**

During the month of October 2016 a Detective received notice from the Chief that he had been assigned an off-duty construction detail approximately one (1) hour before the detail started. The Detective complained about this short notice and the Chief accused him of being insubordinate and then threatened to exclude him from future overtime details of this nature. Specifically the Chief stated that since the officer was assigned to a Detective position then maybe he shouldn't be allowed to work "patrol" overtime details. The Police Department has no policy in this area and Detectives have always been permitted to work all types of overtime details offered by the PD in the past. There was no doubt that these threats regarding insubordination and future overtime eligibility were in direct response to this officer merely voicing his displeasure about the extreme late notice he received about his overtime assignment. This is yet another example of the Chief inappropriately exercising his authority to stifle a complaint about the manner in which he assigns off-duty employment.

#### **Example #2:**

During the month of November of 2016 the Chief confronted a Sergeant about officers complaining to Township committee members about work-related issues. Specifically the Chief was upset that unknown officers had spoken to committee members about the Finance Department mishandling payroll which resulted in large abrupt payroll deductions from full-time staff at the end of the year to make up for their error. The Chief called the officers who spoke to the committee members "cunts, pussies and faggots" who betrayed him and promised to find out who they were.

This same day the Chief informed officer that he had an interesting committee meeting the night before and knows some officers have been "running" to committee members and speaking with them about department issues. He told this officer that he would find out who these officers are and promised to "break a stick off so far up their ass" that they wouldn't know what to do. The Chief again said there would be dire consequences for anyone he found was talking to committee members and indicated that the committee people "like to talk" and he would be able to find out the officers names from them.

**Example #3:**

On several occasions in the Fall of 2016 the Chief has informed officers that the Township has hired a "high-priced" labor attorney who plans on fighting the unions for everything and anything they seek in upcoming contract negotiations. More specifically the Chief recently told the President of the BTPOA that this attorney will be "going after" the BTPOA. These statements are always unsolicited and often in response to his inability to fill an overtime detail. The Chief will routinely tell officers in a derogative way that they "make too much money" which is why they don't sign up for off-duty overtime and promises that he plans on fixing this during the impending contract negotiations. Officers do not feel that they should be subjected to threats concerning contract negotiations from their Chief who participates in the negotiations due to his dual role as Township Administrator. *(Example of similar comments marked as recording #23)*

**Example #4:**

The Chief's management of off-duty employment for the police department is a major issue of contention. Officers feel that the ultimate priority of assigning off-duty employment should be that it is done in a fair and equitable manner. The Chief has never issued any policies regarding off-duty employment which outline how assignments are awarded and who is eligible. There is no master list that officers can refer to in order to see how many hours of off-duty employment they have received and then compare such against their co-workers. This total lack of understanding of the method and transparency in which off-duty employment is assigned has eroded department morale. The inefficiency and short notice that off-duty details are posted by the Chief also often results in a lack of volunteers who are unable to juggle their home schedule and family obligations in a moment's notice. Any complaints made to the Chief about these off-duty employment issues are met with derisiveness and a threat by him to end all off-duty details in the future. The fact that he works an inordinate amount of these details also leads to the suspicion that he is inappropriately awarding himself these details for self-enrichment. These suspicions are bolstered by the fact that the Chief will often say that he had to work a detail because no one volunteered when in fact officers have electronic proof that they did in fact volunteer.

The off-duty security detail at the Petro Truck Stop is another example of the Chief exercising total control over the management of outside duty. When Petro officials first approached the Chief about having Officers perform security at the Truck Stop he claimed that it would be 8 hours a day, 5 days a week including holidays and officers would have to sign a contract obligating that they agree to be forced in to work the detail if necessary. This dissuaded several people from initially signing up and turned out to be inaccurate information as the detail is not scheduled on holidays. Officers have since asked to work the detail but the Chief contends that

they have to be “unanimously voted in” by the Officers who initially agreed to work the detail and so far no new officers have been voted in. The terms that the Chief has set to work this detail are not backed by any policy and are unfair to department members. The Petro Truck Stop has an agreement with the Township of Bordentown for its officers to work security there and the Chief has no right to preclude anyone from being eligible without just cause. This detail should be available to every officer for open bid and the system he created of being “voted in” is unfair and does not conform with any past practice or precedent concerning department overtime.

**Example #5:**

Within the last two years, on at least twenty occasions, the Chief has taken an officer assigned to patrol duties working their normal shift and ordered them to work an off-duty detail in another municipality. For example, if the Chief is unable to fill an off-duty security detail at the State Vehicle Auction in Ewing Township he will order an officer working patrol to respond to the Auction and cover that detail for several hours while on duty. This has also occurred in Mansfield Township on numerous occasions. Officers, many of who are Bordentown Township taxpayers, are appalled that the Chief would reduce our manpower and assign officers on-duty to work security in other municipalities. These actions leave the Township Police Department vulnerable and understaffed and are completely unnecessary. The Chief refuses to tell these municipalities that he was unable to find volunteers and direct them to look elsewhere to fill their security needs.

**Example #6:**

Throughout his tenure as Chief, Frank Nucera has openly expressed his contempt for the Bordentown City Police Department. These feelings were magnified after the Fieldsboro Police Department dissolved at the end of 2015 and the Borough entered into a shared services agreement with Bordentown City for police services. Chief Nucera was enraged that Fieldsboro did not contract with Bordentown Township for police services and informed his officers that we were to no longer provide any type of backup to City Officers. Chief Nucera stated that since the City believed they had enough personnel to police two (2) separate towns then they shouldn't need our assistance and informed officers that he doesn't care if they are “screaming for backup” we are not to respond. Chief Nucera also threatened to severely discipline any Township officer and their Supervisor if they disobeyed his order and had one Sergeant issue a department wide email reiterating this order (see attached exhibit). Chief Nucera went on to order Township officers to effectuate motor vehicle stops of vehicles within the jurisdiction of Bordentown City, to surround the City at times with police vehicles in search of motorists entering or leaving the City with violations and to make high-profile stops of motorists on the City's main thoroughfare (Farnsworth Ave.) in an effort to “hurt their businesses”.

Township Officers were offended by these orders and believed it contradicted their moral and ethical obligation to provide aid to anyone in need, civilian or law enforcement. These officers also resented being drawn into what was obviously a personal vendetta the Chief has against Bordentown City and believed that he is abusing his power by enacting this order. Township Officers feared retaliation if they spoke up against this order but had no process to complain since the Chief acts as his own supervisor in the role of Township Administrator.

**Example #7:**

In the Spring of 2016 the Chief was scheduled to work an off-duty security detail one morning at the Petro Truck Stop but left his post and returned to headquarters. He never entered the station and appeared to wait for this squad, unbeknownst to them, in the rear police lot. After the squad completed their roll call they exited police headquarters and headed to their marked units to begin their tour of duty. A few members of this squad did not have their ties clipped on yet and were wearing them on their collars. The Chief hid behind a department speed sign trailer and jumped out on these officers and began screaming at them for not properly wearing their ties. This type of bizarre and hostile behavior is unfortunately the norm for employees of the Bordentown Township Police Department.

**Example #8:**

On 8/4/16 and 8/5/16 Chief Nucera ordered an officer to conduct surveillance on a Township employee who had called in sick after he denied her bereavement day in his role of Township Administrator. The Chief was incensed and felt that this employee was abusing sick time. This was not a police department employee and is actually a civilian secretary who works in the Township's construction office. The Chief ordered the officer to surveil her residence for sixteen hours in an effort to catch her leaving the home while supposedly sick. He even directed the officer to remain at the home on overtime during the second day. This is an egregious abuse and mismanagement of police resources for a non-criminal matter. Once again officers fear retaliation if they speak out against such an order because of the Chief's dual roles as Police Chief and Township Administrator.

**Example #9:**

For at least the past five years the Bordentown Township Police Department has failed to follow the NJ Attorney General's Guidelines on firearms qualifications in regards to the Bushmaster .223 semi-automatic rifles Chief Nucera issues to each officer. The Attorney General Policy clearly mandates quarterly training on these rifles, two of which may be used for qualification purposes. Bordentown Township P.D. Firearm Instructors have scheduled these quarterly range dates only to have Chief Nucera consistently cancel two of these sessions each year despite opposition from his own instructors. The Chief claims that the NJ Attorney's

General Guideline is merely a "recommendation" that he doesn't have to follow. This deliberate disregard of the rules established for the proper carrying of these rifles makes the department extremely susceptible to potential liability and inadequately prepares police personnel in the event they need to utilize these weapons during their course of duty.

**Example #10:**

Over the course of the last year the Chief of Police has intentionally withheld pay of at least three BTPD officers as a disciplinary measure. The Chief has informed the Police Department employees that there is a US Department of Labor rule which entitles him to pay an employee only the Federal minimum wage rate if they fail to submit a time sheet at the end of their bi-weekly pay period.

On at least two occasions in the past year the Chief has paid Officers only this minimum wage rate and not their contractually obligated and negotiated salary after they failed to turn in their time sheets. On the third occasion the Chief withheld an entire day's pay from an officer for a perceived procedure violation. In each of these instances he has taken these measures without warning or due process of these officers. They have never been noticed that disciplinary action was being taken against them or an investigation had been initiated. The only way they discovered that this measure had been done was when they received their pay check and realized it was grossly short of their regular earnings. The Chief has repeatedly stated that if "they want their money than they can come into his office and ask him for it". He has essentially created a situation of absolute power and control over his officer's financial well-being and their only recourse is to grovel at his feet and beg for the issuance of their full pay. Needless to say this is a very humiliating and demeaning experience for these officers.

These retaliatory and hostile actions violate both the departments and Attorney General Guidelines on Internal Affairs, specifically in the areas of complaint notification and progressive discipline. It is unheard of that a department administrator would advance to a monetary fine of an employee for a first offense without any notice to that employee whatsoever. Department employees have also checked with the US Department of Labor and they advised that there is no such rule as claimed by the Chief. The fact that the Township's treasurer who is responsible for payroll condones this behavior without any checks and balances further illustrates the type of absolute power the Chief has over all areas of Township government.

**Example #11:**

The Chief routinely subverts chain of command and regularly disparages Supervisors to their subordinates. In one instance an officer asked the Chief if he had the opportunity to review a compensatory time request he had submitted and added that a Police Lieutenant had already signed off on the request and ensured that it wouldn't cause a manpower shortage or any other

department issues. The Chief then unleashed into an unprovoked tirade and informed the officer that the Lieutenant's signature "didn't mean shit" and this Lieutenant had no authority and that this was "his" department. These type of antagonistic tirades weaken a supervisor's effectiveness and have helped erode the department's chain of command.

**Example #12:**

On 3/7/16 the Bordentown Regional High School Boys' Basketball team played Manasquan in a sectional final game at Bordentown Regional High School. This game was well-attended and the BTPD provided off-duty security for the event. The Chief was one of these officers and exploded on school officials working the event when he believed that they were continuing to allow spectators in after reaching the gym's capacity. What the Chief didn't realize and didn't bother to ask is that the School had pre-sold tickets to the game and was only letting people in with these types of tickets. This pre-sold group had also already been factored into the capacity number. The school employees complained to other officers working the event about the Chief's aggressive and disrespectful demeanor and Township Committee members were also made aware of this outburst but failed to follow-up and take any action.

**Example #13:**

On 9/8/15 the Chief was scheduled to work an off-duty security detail at the Petro Truck Stop from 5pm – 10pm. The Chief left the detail, which he routinely does, and drove to the rear parking lot of the police department where he spoke with a former committee member for approximately 45 minutes. After he left the detail a vicious road rage assault happened in the rear parking lot of the Petro between two truck drivers which left one driver severely injured. This assault was observed by Petro employees and other truck drivers who reported it via 911. If the Chief hadn't left his post his mere presence at the truck stop would have possibly prevented this assault from occurring and at the very least he would have apprehended the aggressor before he was able to flee the scene. Officers were appalled by the Chief's neglect of duty and reported such to the Internal Affairs Unit of the Burlington County Prosecutor's Office. Nothing was ever done by the Prosecutor's Office and Officers had no mechanism to report this incident locally due to the Chief's dual role as Township Administrator.

**END OF DOCUMENT**



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## FEDERAL BUREAU OF INVESTIGATION

Date of entry 06/01/2017

BRIAN VINCENT PESCE (PESCE), date of birth [REDACTED], social security account number [REDACTED] of [REDACTED] [REDACTED] [REDACTED], was interviewed inside the United States Attorney's Office (USAO) in Trenton, New Jersey (NJ), Wednesday, 05/24/2017, by Assistant United States Attorney (AUSA) Sarah Wolfe, USAO; AUSA Molly Lorber, USAO; Special Agent (SA) Vernon I. Addison and SA Arthur E. Durrant, III, Federal Bureau of Investigation (FBI), and in the presence of PESCE's attorney, RICHARD MADDEN Esquire. AUSA Lorber provided PESCE with a travel reimbursement form and an advice of rights form. PESCE stated he understood the forms. PESCE subsequently provided the following information:

PESCE is presently the Acting Chief of the BORDENTOWN TOWNSHIP POLICE DEPARTMENT (BTPD). He was previously a Captain and part of his responsibilities included overseeing internal affairs investigations. [REDACTED] and Detective Sergeant SALVATORE GUIDO conducted the investigations. PESCE reviewed the reports and the recommendations and made suggestions if needed. FRANK NUCERA JUNIOR (NUCERA), the former Chief of the BTPD, had the ultimate decision with regard to adjudication and sanctions imposed.

In or around 2001, PESCE was first introduced to internal affairs (IA) investigations while holding the rank of detective. In or around 2005, PESCE received training in conducting IA investigations and he was assigned cases.

The first page of the BTPD IA complaint form is an informational page. The second page contains the actual complaint being submitted. The complainant is typically interviewed by an IA investigator and the investigator completes the form. PESCE never saw a private citizen complete the form but PESCE does not believe they are prohibited from doing so. It is BTPD practice for the investigator to complete the form. Anonymous complaints are accepted too.

After the initial complaint was received, it would be sent to NUCERA. NUCERA would review the complaint, assign an investigation number, and then assign it to an investigator. The complainant then received a

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Investigation on 05/24/2017 at Trenton, New Jersey, United States (In Person)

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File # 282A-NK-2108117 Date drafted 05/31/2017

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by DURRANT III ARTHUR E

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(U//FOUO) BRIAN PESCE interview on 05/24

Continuation of FD-302 of /2017. On 05/24/2017 Page 2 of 3  
~~confirmation letter in the mail and the police officer was notified that a~~  
complaint was filed.

The IA investigator conducted an investigation and reviewed the entire incident. The investigator did not limit the scope of the investigation to only the complaint filed. The investigator reported the findings which included: exonerated, sustained, non-sustained, and unfounded. NUCERA decided if the prosecutor's office needed to be notified of any particular complaint.

A complaint against NUCERA was "unchartered territory" for PESCE. "If ROOHR didn't make the recording, you probably would have never met me." PESCE thinks ROOHR "would have been on stress leave or had a bulls-eye on his back" if the FBI had not conducted the investigation of this complaint.

On 09/01/2016, PESCE did not know there was an incident at the RAMADA INN. TERRY COWEN, the manager, sent him a text message the next day. COWEN told him there was an incident at the hotel. She complained about how NUCERA yelled at her and PESCE provided her with options which included complaining to the mayor. COWEN later complained to the mayor.

ROOHR's initial complaint was filed on or about 09/15/2016. That is when ROOHR "put pen to paper." ROOHR also told PESCE about the existence of the recorded conversations ROOHR had with NUCERA. PESCE decided to draft a complaint listing all of the known allegations against NUCERA.

ROOHR established a gmail account and prepared information for PESCE to review. PESCE considered himself a "partial complainant" because he cut and pasted some information from ROOHR into the final report PESCE prepared. PESCE intended to present the final version of the complaint to the BCPO on 11/18/2016. PESCE canceled the meeting when he was contacted by the FBI.

PESCE and ROOHR discussed ROOHR's complaint. They thought the complaint would first get "rebuffed" by the prosecutor's office, then get "rebuffed" by the township committee, and then they would need to go to the media. PESCE did not think to contact the FBI.

PESCE recalls that he contacted Burlington County Prosecutor's Office (BCPO) Detective Sergeant JOHNATAN GUTKIN in the IA Unit on or about 11/08/2016, to discuss ROOHR's complaint. GUTKIN was on vacation so PESCE left a voice message for him. GUTKIN called PESCE back about one week later and they scheduled a meeting for 11/18/2016.

PESCE considered himself a "partial complainant" because he cut and pasted some information from ROOHR into the final report PESCE prepared.

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(U//FOUO) BRIAN PESCE interview on 05/24

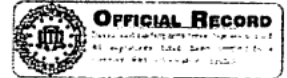
Continuation of FD-302 of /2017. On 05/24/2017, Page 3 of 3  
~~PESCE intended to present the final version of the complaint to the BCPO~~  
on 11/18/2016. PESCE canceled the meeting when he was contacted by the FBI.

On 11/18/2016, PESCE was at the BCPO for an unrelated matter. The BCPO Chief of Detectives saw PESCE and asked him to talk privately. They then met with Lieutenant LIGHTENBERGER, TAD DRUMMOND, and GUTKIN. They asked PESCE why he canceled the meeting and PESCE informed them that the FBI was investigating the matter.

On or about 05/18/2017, PESCE saw former Burlington County Prosecutor [REDACTED] at an event. [REDACTED] asked generally about the FBI investigation and PESCE told him the investigation was ongoing. [REDACTED] stated words to the effect of, "That's crazy. Let sleeping dogs lie."

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## FEDERAL BUREAU OF INVESTIGATION

Date of entry 01/26/2017

[REDACTED] born [REDACTED], of [REDACTED], [REDACTED], cellular telephone number [REDACTED], was interviewed outside the Team 85 Gym in Bordentown Township, on Wednesday, 01/18/2017, by Special Agent (SA) Vernon I. Addison and SA Arthur E. Durrant, III, Federal Bureau of Investigation (FBI). After being advised of the identities of the interviewers and the nature of the interview, [REDACTED] provided the following information:

[REDACTED] was raised in Bordentown Township (BT). He knew who FRANK NUCERA, Junior (NUCERA), was and his son, FRANK NUCERA, III, but he did not know them. [REDACTED] was older than NUCERA's son. [REDACTED] knew that NUCERA was a police officer. He knew that NUCERA was also a mechanic but [REDACTED] never went to NUCERA's garage. [REDACTED] heard NUCERA was called "Fast Frankie" because he used to speed around town in a Chevrolet Chevelle.

In or around October or November of 2001, [REDACTED] was hired as a police officer for the Bordentown Township Police Department (BTPD). Approximately six years ago, he was detailed to the Burlington County Prosecutor's Office (BCPO). On or about 12/19/2016, [REDACTED] was promoted to the rank of sergeant.

[REDACTED] knew Police Chief NUCERA, BTPD, his [REDACTED] entire career. He described NUCERA as being a "micro-manager" and "vindictive." NUCERA yelled often. [REDACTED] considered NUCERA to be a "closet racist." [REDACTED] could not recall ever hearing NUCERA use "the N word" but people told [REDACTED] they heard NUCERA use that word. NUCERA has said "you people" to [REDACTED] [REDACTED] understood that to be a reference to Black people. It is possible that NUCERA tried to be humorous when he said "you people."

Within the past two years, [REDACTED] NUCERA and others attended an active shooter training seminar in a courtroom setting. Someone handed their GoPro unit to [REDACTED] to take a group photograph. NUCERA, in the presence of others, told [REDACTED] words to the effect of, "Make sure you don't get grease on that."

[REDACTED] attended a promotional ceremony about eight to ten years ago with NUCERA. It was possibly for Captain PESCHE's promotion. NUCERA, in the

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Investigation on 01/18/2017 at Bordentown Township, New Jersey, United States (In Person)File # 282A-NK-2108117Date drafted 01/19/2017by DURRANT III ARTHUR E, Vernon I. Addison

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(U//FOUO) [REDACTED]

Continuation of FD-302 of interview on 01/18/2017. , On 01/18/2017 , Page 2 of 4

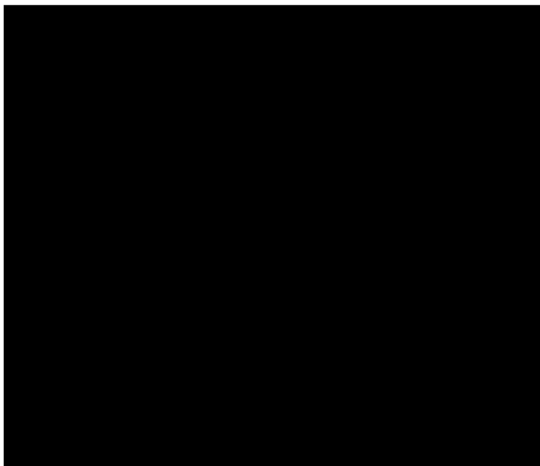
presence of others, told [REDACTED] words to the effect of, "[REDACTED] come over here. We need color in the picture."

[REDACTED] recalled an incident where NUCERA used excessive force during an arrest. In or around 2006 or 2007, a white female was involved in a vehicle pursuit. The pursuit was initiated in Pennsylvania (PA) and terminated in BT. The female crashed into two (2) BTPD vehicles along Route 130 southbound, just at the Route 206 overpass where the former BOB MCGUIRE's was located. [REDACTED] had the female stopped, pulled from the vehicle, on the ground, and handcuffed. NUCERA pulled up in a vehicle with NORM HAND. NUCERA came up to the handcuffed woman, sprayed her in the eyes with pepper spray and immediately walked away. [REDACTED] was shocked to see the Chief of Police do that. [REDACTED] did not report the incident to anyone.

[REDACTED] recalled one incident where information came over the police radio about three black males wanted for an offense. [REDACTED] observed three males who appeared similar to the flash information. They ran into a house as [REDACTED] approached them. The one male shut the door quickly but [REDACTED] prevented it from closing completely. [REDACTED] learned that the males were not the ones wanted but NUCERA arrived on the scene and told [REDACTED] to arrest them anyway. [REDACTED] believed "race played a factor" in NUCERA's decision.

The BTPD consisted of about twenty three (23) or twenty four (24) people. [REDACTED] was the first black police officer at the BTPD. [REDACTED] knew of one female but she separated from the BTPD. [REDACTED] is of mixed descent. There were no Hispanic officers.

[REDACTED] was skipped over for promotion to sergeant on two occasions by NUCERA. The original list came out around July of 2015. [REDACTED] estimated the following individuals were ranked in the following manner:



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282A-NK-2108117

(U//FOUO) [REDACTED]

Continuation of FD-302 of interview on 01/18/2017.

, On 01/18/2017 , Page 3 of 4

[REDACTED]

In or around July of 2015, NUCERA promoted his son and GUIDO to the rank of sergeant. NUCERA told [REDACTED] he did not promote him because NUCERA did not trust him. NUCERA said he did not trust that [REDACTED] would have steady work production. In or around December of 2015, NUCERA promoted the others but not [REDACTED]. [REDACTED] was stunned because he was already running a squad. He had assumed a sergeant's responsibilities but did not receive the equivalent pay. In December of 2016, [REDACTED] was officially promoted by NUCERA to the rank of sergeant.

At some point, [REDACTED] started taking notes of some things NUCERA said and did. There were not a lot of notes. [REDACTED] lost those notes but will look to see if he can locate them. In the Fall of 2016, [REDACTED] and others started recording conversations with NUCERA. [REDACTED] purchased a USB recorder on Amazon.com and used that device to record NUCERA. [REDACTED] believed [REDACTED] recorded conversations with NUCERA as well. [REDACTED] recorded conversations with NUCERA for protection. [REDACTED] "was more scared of dealing with FRANK NUCERA than arresting a guy with a weapon."

NUCERA had a temper and he would yell at officers. NUCERA would also threaten suspensions. NUCERA would occasionally get annoyed with Bordentown City (BC) officials. NUCERA would then tell his officers not to backup any BC police officers. NUCERA told BTPD officers that rather than put it in an e-mail.

Approximately four (4) or five (5) months ago, a BC police officer conducted a traffic stop in BT. NUCERA learned of it and became enraged. NUCERA ordered BTPD officers to be at every corner of BC and "run radar." NUCERA knew that BT surrounded the BC boundaries. NUCERA believed that this deterred people from entering BC. NUCERA said he thought it hurt the BC businesses too.

NUCERA ordered extra police officers and K-9 units at school basketball games when "schools of color" were involved. NUCERA even had the K-9 dogs out of the vehicles. [REDACTED] thought that was unnecessary when dealing with teenagers.

[REDACTED]

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FD-302a (Rev. 05-08-10)

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(U//FOUO [REDACTED])

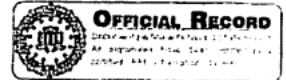
Continuation of FD-302 of [REDACTED] interview on 01/18/2017. , On 01/18/2017 , Page 4 of 4

[REDACTED]

NUCERA was a Mason and [REDACTED] was too but they belonged to different lodges. NUCERA used to say to [REDACTED] words to the effect of, "You go to the black Mason lodge."

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## FEDERAL BUREAU OF INVESTIGATION

Date of entry 02/14/2017

[REDACTED] born [REDACTED], social security account number [REDACTED], of [REDACTED], [REDACTED], cellular telephone number [REDACTED], was interviewed on Monday, 02/06/2017, by Special Agent (SA) Arthur E. Durrant, III, and SA Vernon I. Addison, Federal Bureau of Investigation (FBI). After being advised of the identities of the interviewers and the nature of the interview, [REDACTED] provided the following information:

In or around 2006, [REDACTED] was hired as a police officer by the Bordentown Township Police Department (BTPD). In December of 2015, [REDACTED] was promoted to his current rank of sergeant. [REDACTED] is also a K9 officer. He has two (2) working BTPD dogs: a Labrador Retriever that is trained as a narcotics dog and a German Shepard trained as a patrol and bomb dog. BTPD has four (4) K9 officers and six (6) police dogs.

[REDACTED] recalled an incident where he thought BTPD Chief FRANK NUCERA, JUNIOR (NUCERA) used excessive force at an arrest. There was a vehicle pursuit and the female suspect reportedly hit two BTPD police vehicles. The woman was handcuffed and laying on the ground. NUCERA walked up to the woman and sprayed her in the face with mace and walked away. [REDACTED] was not present for the arrest so he did not see it when it happened. However, other officers told [REDACTED] what NUCERA did and [REDACTED] also saw police video. [REDACTED] saw NUCERA spray the female on the video. [REDACTED] does not know if that video still exists.

[REDACTED] heard about an incident at the Ramada Inn where NUCERA reportedly used excessive force. [REDACTED] was not working that day. [REDACTED] squad was working and [REDACTED] heard that Lieutenant MOUNT had been injured and that NUCERA pushed a suspect's head into a door jam. [REDACTED] thought the following police officers were present: [REDACTED]

[REDACTED] cannot recall seeing NUCERA use excessive force while [REDACTED] was present. [REDACTED] cannot recall any other incident where NUCERA reportedly used excessive force.

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Investigation on 02/06/2017 at Bordentown, New Jersey, United States (In Person)File # 282A-NK-2108117Date drafted 02/10/2017by DURRANT III ARTHUR E, Vernon I. Addison

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282A-NK-2108117

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Continuation of FD-302 of [REDACTED] on 02/06/2017. , On 02/06/2017 , Page 2 of 4

NUCERA tends to escalate situations so [REDACTED] is relieved when NUCERA does not respond to police calls with him. NUCERA tends to yell at people and threaten to arrest people rather than talking to them and calming them down. [REDACTED] has heard NUCERA use racial slurs but never directly to a civilian. NUCERA used racial slurs in the presence of [REDACTED] and other officers.

[REDACTED] recalled an incident a few years ago involving [REDACTED] and NUCERA where in the BTPD police station and [REDACTED] was going to use a particular police vehicle. [REDACTED] heard NUCERA say to [REDACTED] words to the effect of, "Don't get your greasy head on the headrest."

[REDACTED] recalled an incident on or about 10/12/2016 between about 7:50 AM and 8:50 AM. A local tree cutting company had a vehicle involved in an automobile accident. The driver of the truck was Hispanic. NUCERA responded to the scene. He eventually told [REDACTED] words to the effect of, "I can't deal with these fucking Mexicans."

On or about 10/19/2016, [REDACTED] met with NUCERA. [REDACTED] had just returned from Seaside Park with his bomb dog after working a police event. [REDACTED] had attended an exit debriefing and wanted to provide that information to NUCERA. During their meeting NUCERA told [REDACTED] words to the effect of, "These sandniggers...we have to get rid of them." [REDACTED] understood this as a derogatory term for people of Middle Eastern descent.

[REDACTED] has heard NUCERA use the words "nigger" and "moulinyan" as derogatory terms to describe black people. [REDACTED] never heard NUCERA use those words directly to a black person.

[REDACTED] recalled an incident that occurred within the past year. [REDACTED] and [REDACTED] were present during the arrest of two "sovereign citizens." [REDACTED] recalled the police had handcuffed the men and calmed them down. NUCERA showed up at the scene and started yelling at the suspects. NUCERA kept calling them "you people." The men started yelling back at NUCERA and the police. [REDACTED] recalled that NUCERA frequently used the term "you people" when talking to various people.

[REDACTED] is a trained K9 officer. A common rule of thumb for [REDACTED] and other K9 officers when deciding whether or not to deploy a dog is deciding if the incident involves an indictable offense. If a person is not

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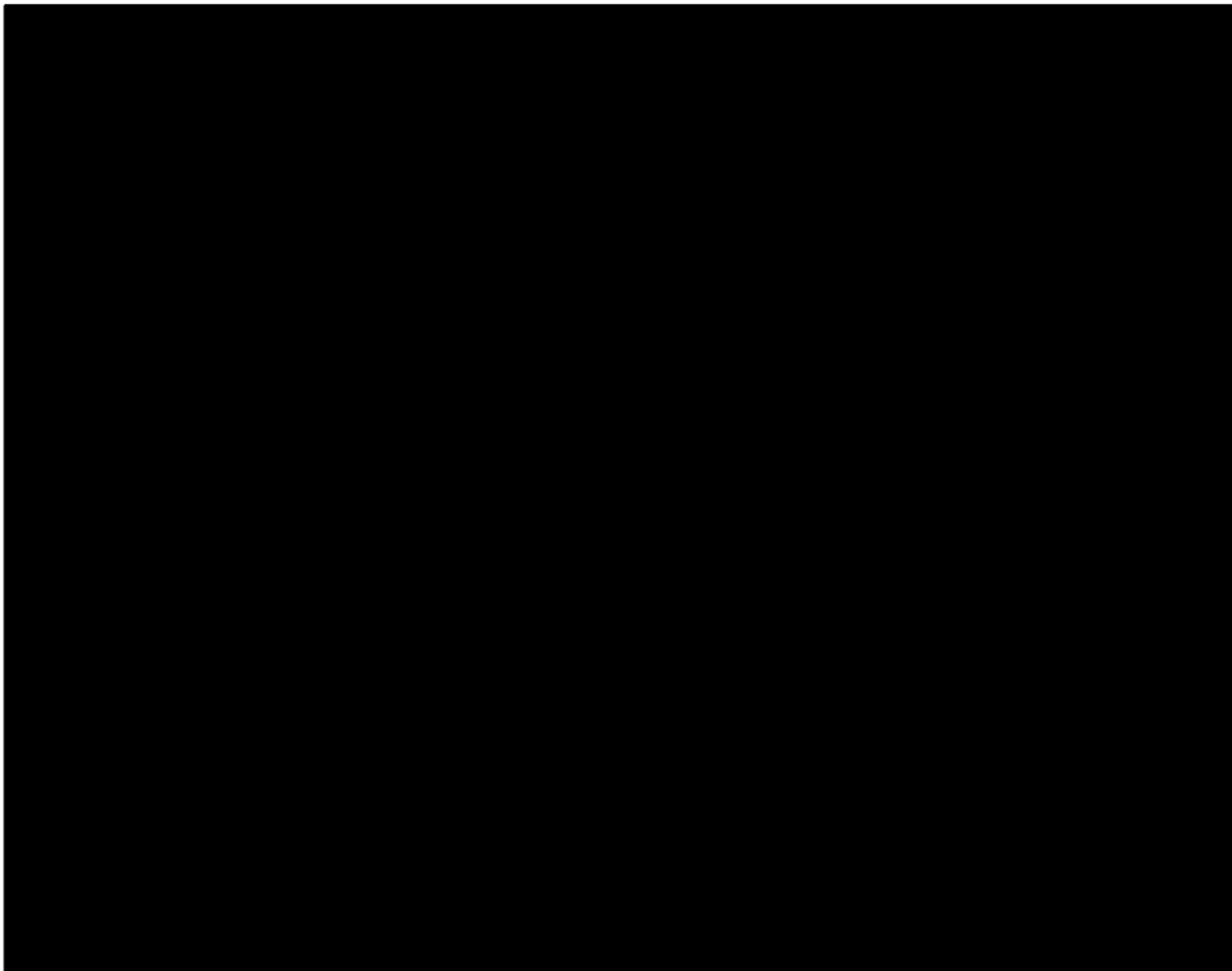
(U//FOUO) [REDACTED]

Continuation of FD-302 of [REDACTED] on 02/06/2017.

, On 02/06/2017 , Page 3 of 4

committing an indictable offense, [REDACTED] would not deploy a K9 dog. If a person is committing an indictable offense, [REDACTED] would then decide if the circumstances dictate deploying a police dog.

NUCERA liked to intimidate people. [REDACTED] thought NUCERA used police dogs to intimidate the public. For example, NUCERA wanted police dogs at local high school basketball games particularly where at least one of the teams had people of color. NUCERA initially wanted the dogs inside the gym at the end of the games. [REDACTED] and others were uncomfortable with deploying the dogs in this manner at a game involving juveniles and their family members. To [REDACTED] and others, it was designed to be intimidating.



NUCERA wanted officers to issue tickets. Tickets seemed to be more of a priority to NUCERA than arrests. NUCERA also wanted updates directly. [REDACTED] would contact NUCERA directly to advise of situations.

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282A-NK-2108117

(U//FOUO) [REDACTED]  
Continuation of FD-302 of [REDACTED] on 02/06/2017, On 02/06/2017, Page 4 of 4

Many of the BTPD police officers did not like NUCERA. [REDACTED] and others decided to record conversations with NUCERA as a "CYA." [REDACTED] purchased a recording device to record NUCERA. [REDACTED] believes he has two recorded conversations with NUCERA but [REDACTED] thinks he used his cellular telephone to record those conversations.

[REDACTED] thinks SAL GUIDO had a good rapport with NUCERA. GUIDO was "like his best buddy." [REDACTED] heard GUIDO witnessed NUCERA push the suspect's head into a door jam at the Ramada Inn.

[REDACTED] thinks Sergeant ROOHR "is a good guy. He preaches the right thing and he does the right thing." [REDACTED] cannot think of any significant reason for Sergeant ROOHR to be angry with NUCERA. [REDACTED] did not think ROOHR had "an ax to grind with the Chief." [REDACTED] did not know of any significant reason KOTORA, NAGLE, and MOUNT would have to be angry with NUCERA either.

The BTPD Internal Affairs Unit consists primarily of Captain PESCE and Detective Sergeant SAL GUIDO.

[REDACTED] believes he witnessed misconduct by NUCERA. [REDACTED] never made an attempt to report any of that misconduct for fear of retaliation, "one hundred percent." NUCERA was the BTPD Police Chief and the Bordentown Township Business Administrator. [REDACTED] believes NUCERA ran "the entire town." [REDACTED] was told that NUCERA said that he had Burlington County Prosecutor [REDACTED] "in his pocket."

[REDACTED]

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## FEDERAL BUREAU OF INVESTIGATION

Date of entry 01/30/2017

[REDACTED] born [REDACTED], social security account number [REDACTED], of [REDACTED] cellular telephone number [REDACTED], was interviewed inside his residence on Tuesday, 01/24/2017, by Special Agent (SA) Vernon I. Addison and Arthur E. Durrant, III, Federal Bureau of Investigation (FBI). After being advised of the identities of the interviewers and the nature of the interview, [REDACTED] provided the following information:

[REDACTED] the State of NJ civil service examination for police officers. Shortly after receiving his examination score [REDACTED] received a letter from the Bordentown Township Police Department (BTPD) inviting him to attend a group session. [REDACTED] attended this session with approximately twenty four (24) other candidates. [REDACTED] recalled the group consisted of all white males, one black male and one Hispanic male. Captain Hand seemed to be the person in charge. [REDACTED] and the other candidates received an application package from the BTPD.

[REDACTED] completed his application and returned it to the BTPD. Detective Salvatore Guido subsequently called [REDACTED] and scheduled a background investigation. [REDACTED] and others were then scheduled for a physical fitness test and then a psychological examination in the Northern New Jersey area.

In or around August of 2014, [REDACTED] and three other individuals were hired by the BTPD. In or around September of 2014, [REDACTED] and the others started the police academy. All of the four individuals resided in Bordentown. Three were white males and [REDACTED] was a black male.

[REDACTED] did not deal directly with BTPD Police Chief FRANK NUCERA, JUNIOR (NUCERA) until he graduated the police academy and started working as a police officer. [REDACTED] and the other new officers rotated with other officers at first. [REDACTED] worked with [REDACTED] and [REDACTED]. He considered them to be excellent training officers. Officers suggested that [REDACTED] "keep notes" about NUCERA.

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Investigation on 01/24/2017 at Bordentown, New Jersey, United States (In Person)File # 282A-NK-2108117Date drafted 01/26/2017by DURRANT III ARTHUR E, Vernon I. Addison

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282A-NK-2108117

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Continuation of FD-302 of [REDACTED] on 01/24/2017. , On 01/24/2017 , Page 2 of 4

[REDACTED] thought NUCERA was "hot and cold." He had a temper and frequently yelled. NUCERA used a lot of "vulgarity." NUCERA was intentionally intimidating. [REDACTED] was present when NUCERA yelled at [REDACTED]. [REDACTED] also thought NUCERA was "a racist." [REDACTED] never heard NUCERA use racial slurs but other officers told [REDACTED] that NUCERA regularly used racial slurs. [REDACTED] who is the only other black officer at the BTPD, told [REDACTED] about comments NUCERA made directly to him and in front of others. NUCERA used "you people" a lot when speaking to non-white police officers. It seemed to [REDACTED] that NUCERA "did not like minorities."

[REDACTED] thought NUCERA escalated situations. When [REDACTED] was dealing with people on a police call, NUCERA would show up and start yelling at people. That would tend to escalate the situation. For example, [REDACTED] responded to the PETRO TRUCK STOP (PETRO) for a call about possible prostitution. [REDACTED] was questioning a female when NUCERA arrived. The situation was calm but NUCERA agitated the female and then he yelled, "Lock her up." [REDACTED] felt there was "no reasoning with him."

[REDACTED] heard about an incident at the RAMADA INN (RAMADA) involving NUCERA. [REDACTED] was supposed to be working during that shift. NUCERA modified [REDACTED] schedule so he did not work that shift. [REDACTED] heard about the incident no more than a week after it occurred. [REDACTED] heard that Lieutenant MOUNT got into a fight and got hurt. He also heard that NUCERA used excessive force. [REDACTED] heard that NUCERA pushed the subject's head into the door jam of a police car. He also heard that the subject got a concussion. [REDACTED] cannot recall who told him but he believed it was more than one police officer.

NUCERA wanted a lot of traffic tickets issued. [REDACTED] said, "Everyone knows you gotta write 45 tickets per month." NUCERA did not want warnings issued. [REDACTED] did not think NUCERA should take the discretion away from police officers. NUCERA did not seem to care about arrests such as guns or drugs. He wanted traffic tickets issued. NUCERA never said or suggested to target any minority group.

[REDACTED]

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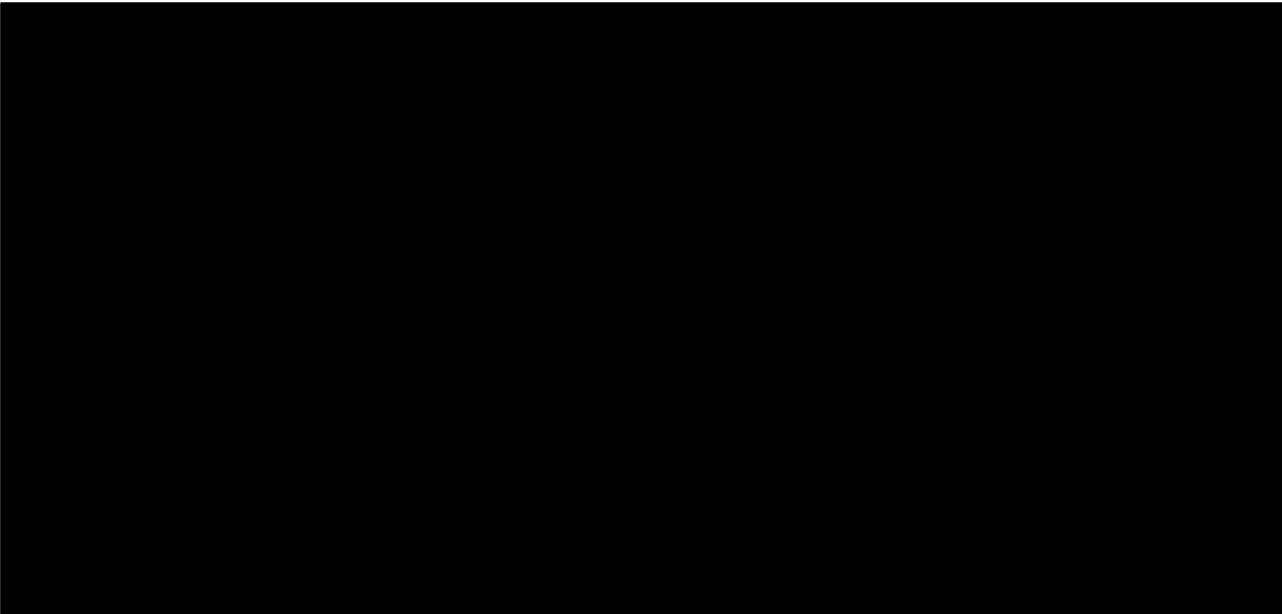
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(U//FOUO) [REDACTED]

Continuation of FD-302 of [REDACTED] on 01/24/2017.

, On 01/24/2017, Page 3 of 4



When queried by SA Addison if NUCERA ever used the BTPD K-9 dogs to unnecessarily intimidate citizens, [REDACTED] responded, "absolutely." [REDACTED] [REDACTED] had Boston as his K-9 dog. Boston barked a lot and was considered the most aggressive BTPD dog. There was a July 4th gathering in 2016 with fireworks. It was postponed because of rain. When it actually occurred, NUCERA wanted [REDACTED] and Boston at the front gate for everyone to see when they arrived. NUCERA wanted to intimidate the people. [REDACTED] thought that was the wrong message to send to the public which consisted primarily of families with small children.

In or around September or October of 2016, [REDACTED] responded to an incident involving a motor vehicle at the JK LIQUOR STORE along Route 206. There was a man in a truck who had hit another vehicle and was not responding to police commands. The man clearly appeared incoherent to [REDACTED] [REDACTED] broke the passenger window of the vehicle and extracted the man from the vehicle. The man appeared to be experiencing diabetic shock to [REDACTED] [REDACTED] called for two (2) ambulances: one for his injured hand and one for the man. NUCERA arrived on the scene and told [REDACTED] to just have one ambulance come to the scene. NUCERA said words to the effect of, "Fuck him. Bring him to the station." [REDACTED] complied with NUCERA's order. The man was subsequently taken by ambulance from the police station to the hospital for diabetic shock.

[REDACTED] considered NUCERA's son, BTPD Sergeant [REDACTED] [REDACTED] to be a good police officer. [REDACTED] was also friends with [REDACTED] [REDACTED] never heard [REDACTED] use any racial slurs. [REDACTED]

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FD-302a (Rev. 05-08-10)

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282A-NK-2108117

(U//FOUO) [REDACTED]

Continuation of FD-302 of on 01/24/2017.

, On 01/24/2017, Page 4 of 4

[REDACTED]

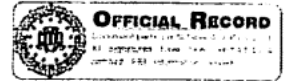
[REDACTED] recalled an incident wherein a man came into the BTPD to file a complaint against NUCERA. NUCERA responded to a incident involving the man at the BEST WESTERN HOTEL. NUCERA reportedly used the words "you people" and the man wanted to file a complaint. [REDACTED] did not know what happened after that.

[REDACTED]

[REDACTED] would get upset at a call involving minorities when NUCERA also responded. He hoped NUCERA did not show up because he would likely escalate the situation.

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GA049



## FEDERAL BUREAU OF INVESTIGATION

Date of entry 02/14/2017

[REDACTED] date of birth, [REDACTED], social security number, [REDACTED], home address, [REDACTED], cell phone number, [REDACTED], home phone number, [REDACTED], was advised of the identities of the interviewing agents and the purpose of the interview. [REDACTED] provided the following information:

[REDACTED] has been employed as a police officer for the Bordentown Township Police Department for 19 years. He is currently a sergeant and the school resource officer. [REDACTED] was raised in Bordentown Township, NJ. Prior to joining the police department, [REDACTED] was a communications officer for the Trenton State Prison for 3 years and 6 months.

[REDACTED]

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Investigation on 02/01/2017 at Bordentown, New Jersey, United States (In Person)File # 282A-NK-2108117Date drafted 02/06/2017by Vernon I. Addison, DURRANT III ARTHUR E

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GA050

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED] [REDACTED], On 02/01/2017, Page 2 of 8

[REDACTED]

[REDACTED] later found out that [REDACTED] filed an internal affairs complaint with the Burlington County Prosecutor's Office (BCPO) against CHIEF NUCERA. [REDACTED] was interviewed by the BCPO regarding the incident as was [REDACTED] and [REDACTED]. Shortly after [REDACTED] filed the complaint, [REDACTED] went out on leave. During a police association meeting, [REDACTED] mentioned that [REDACTED] would be out of work for some time due to post traumatic stress. [REDACTED] got disability and retired.

[REDACTED]

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 02/01/2017, Page 3 of 8

[REDACTED]

[REDACTED] commented that CHIEF NUCERA runs the police department poorly and inefficiently.

[REDACTED] was a patrol sergeant for 16 years but is currently the school resource officer. This past summer, [REDACTED] told CHIEF NUCERA about "community day" for the community of Bradford Point. CHIEF NUCERA commented that the event was "for all the little mulignans." CHIEF NUCERA used the word "mulignans" before and [REDACTED] believed CHIEF NUCERA was using "mulignans" to call the African American children "niggers." [REDACTED] also heard CHIEF NUCERA use the word "nigger" towards another ethnic group but not African Americans.

[REDACTED]

[REDACTED] advised that at some point in time he talked with [REDACTED], who told him that CHIEF NUCERA asked him to get into a picture so it would have a "little color." [REDACTED] did not remember when this occurred.

[REDACTED]

[REDACTED] acknowledged that CHIEF NUCERA treated him pretty well but CHIEF NUCERA told [REDACTED] that he was not an officer because he was not on the road. [REDACTED] stated that he does not butt heads with CHIEF NUCERA but, "(I) tried to avoid him as much as possible."

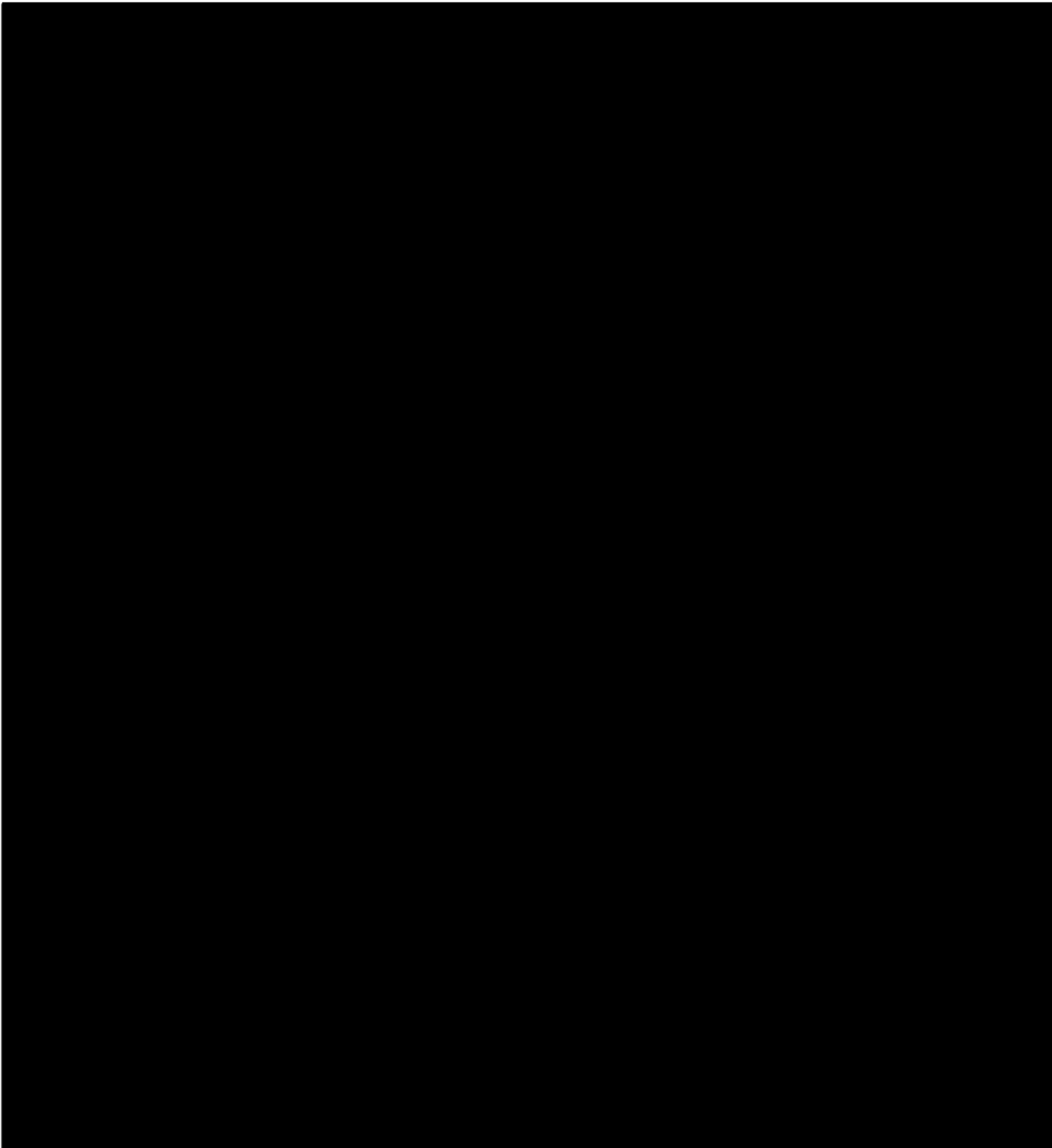
A Cinnaminson, New Jersey officer named [REDACTED] asked [REDACTED] if he was scared of CHIEF NUCERA. [REDACTED] said he was not scared but he had witnessed what CHIEF NUCERA could do if you went against him. Former Bordentown Township [REDACTED] did some "boneheaded" things but CHIEF NUCERA sent him to a psychiatrist. The same psychiatrist sits in on the interviews for new applicants. [REDACTED] decided to buy back time so he could retire. When CHIEF NUCERA realized what [REDACTED] was planning to do, he stopped sending him to the psychiatrist.

FD-302a (Rev. 05-08-10)

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 02/01/2017, Page 4 of 8

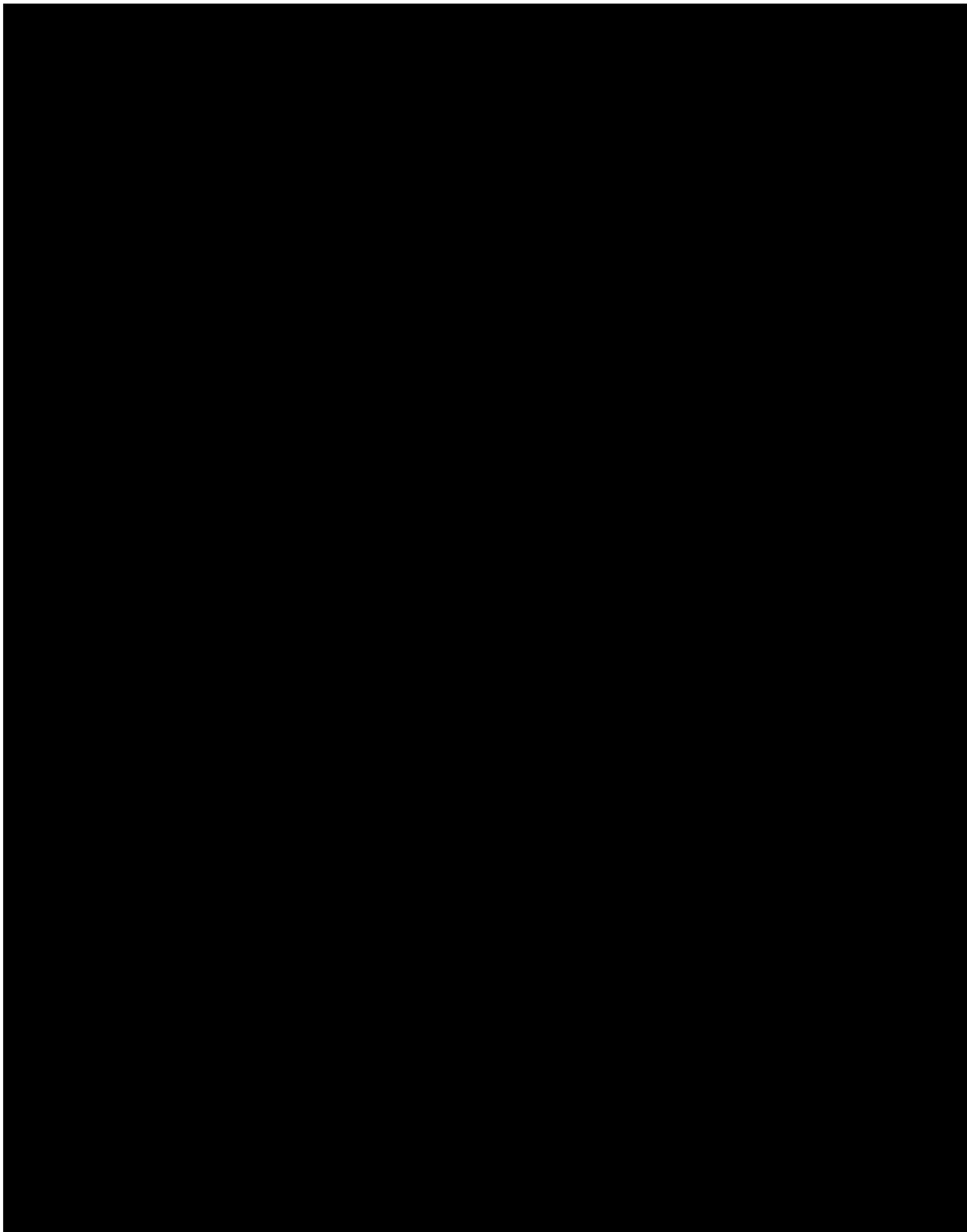
CHIEF NUCERA cursed frequently. CHIEF NUCERA always picked with officers about the small things. CHIEF NUCERA always mentioned tickets being low and the officers not being productive. [REDACTED] stated, "He (CHIEF NUCERA) was big on tickets."



GA053

282A-NK-2108117

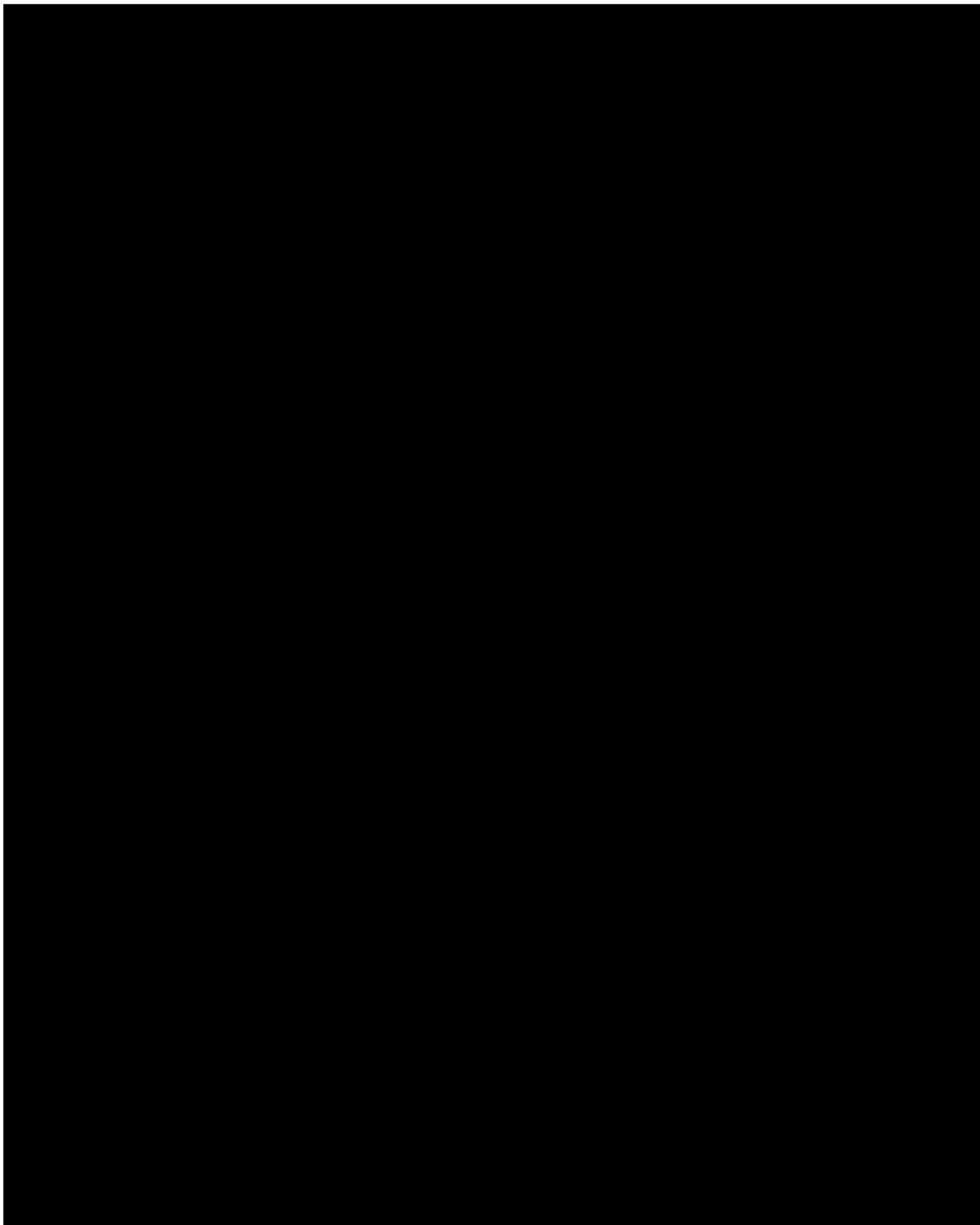
Continuation of FD-302 of (U) [REDACTED] , On 02/01/2017 , Page 5 of 8



FD-302a (Rev. 05-08-10)

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED] , On 02/01/2017 , Page 6 of 8



282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 02/01/2017, Page 7 of 8

[REDACTED] advised that recently he heard that CHIEF NUCERA hit a suspect in a doorway at the Ramada Hotel call. [REDACTED] heard this from several people and he could not pinpoint who told him. [REDACTED] heard that Sergeant NATE ROOHR was on-scene. CHIEF NUCERA made a comment that Sergeant ROOHR was not questioned yet by the FBI but he was at the Ramada Hotel call. CHIEF NUCERA gave the impression that he was not worried about the FBI investigation.

[REDACTED] suggested that the FBI speak with former Bordentown Township [REDACTED] [REDACTED] is currently employed by the Mercer County Sheriff's Office. [REDACTED] beat out CHIEF NUCERA as fire commissioner. CHIEF NUCERA also denied allowing [REDACTED] to use sick time when his father was dying. Instead, [REDACTED] had to use benefit time.

[REDACTED] commented about CHIEF NUCERA, "I don't care for the guy at all. I had to be fake around him and that is not easy for me to do."

[REDACTED] advised that CHIEF NUCERA made [REDACTED] and [REDACTED] work schedules horrible. They both had to work midnight shifts during the weekends. [REDACTED] eventually retired. [REDACTED] was a hard worker and did whatever CHIEF NUCERA asked of him.

[REDACTED] described Captain PESCE by saying, "PESCE is great and fair." [REDACTED] commented that all he ever wanted was to be treated fairly.

Detective Sergeant GUIDO did not have a grudge against CHIEF NUCERA. [REDACTED] believed that GUIDO and CHIEF NUCERA were friends. [REDACTED] stated that he does not trust Detective Sergeant GUIDO. Detective Sergeant GUIDO would talk bad about CHIEF NUCERA to his friends outside the department but be "buddy buddy" with CHIEF NUCERA. Other officers believed that Detective Sergeant GUIDO would give information to CHIEF NUCERA.

Sergeant ROOHR did not have a grudge against CHIEF NUCERA. Sergeant

FD-302a (Rev. 05-08-10)

282A-NK-2108117

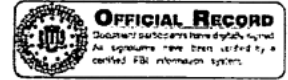
Continuation of FD-302 of (U) [REDACTED], On 02/01/2017, Page 8 of 8

ROOHR is laid back and relaxed. Sergeant ROOHR is not the kind of man who is going to talk back to CHIEF NUCERA. [REDACTED] recalled an incident when Sergeant ROOHR was scheduled to work overtime and then the night shift. Sergeant ROOHR had a bad back and had to go home sick. CHIEF NUCERA flipped out when he learned that Sergeant ROOHR went home. Sergeant ROOHR did not abuse sick time and when he found out about CHIEF NUCERA's reaction that may have bothered him. CHIEF NUCERA pretty much got everyone upset.

[REDACTED]

[REDACTED] provided the FBI with 8 pages of his handwritten notes. He also provided a typed note detailing an incident which occurred the week prior to 07/30/2016 in which CHIEF NUCERA called Black children, malignans.

GA057



## FEDERAL BUREAU OF INVESTIGATION

Date of entry 02/23/2017

██████████ date of birth, ██████████, social security number, ██████████, home address, ██████████, ██████████, cell phone number, ██████████, was advised of the identity of the interviewing agents and the purpose of the interview. STAHL provided the following information:

██████████ has been employed by the Bordentown Township Police Department for 6 years. He is currently a sergeant. ██████████ previously worked at the Pemberton Police Department for 6 years as a police officer. During portions of 2005 and 2006, ██████████ attended the academy for correction officers.

██████████ commented that his move to Bordentown Township Police was a good move. ██████████ stated, "(I) didn't agree with a lot of how shit was done." He also stated that he did not like CHIEF FRANK NUCERA's management style. ██████████ stated, "he never deescalated a situation."

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Investigation on 01/24/2017 at Bordentown, New Jersey, United States (In Person)File # 282A-NK-2108117Date drafted 02/15/2017by Vernon I. Addison, DURRANT III ARTHUR E

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FD-302a (Rev. 05-08-10)

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 01/24/2017, Page 2 of 6

[REDACTED]

[REDACTED] stated, "The chief is a racist. The chief is a bigot." [REDACTED] explained that he heard CHIEF NUCERA use racial slurs like "nigger" and "sand nigger." [REDACTED] did not recall hearing CHIEF NUCERA use those racial slurs to the public. [REDACTED] characterized CHIEF NUCERA by saying, "He is a stoop gangster." CHIEF NUCERA has called Blacks, "muli" used as a derogatory term.

Bordentown Township Police Department only has two Black police officers, [REDACTED]

[REDACTED] recalled an incident when CHIEF NUCERA told Sergeant [REDACTED] to not grease up his camera. This occurred during an active shooter drill. [REDACTED] wanted to wear CHIEF NUCERA's GoPro camera and that is when CHIEF NUCERA told Sergeant [REDACTED] to not grease up his GoPro. [REDACTED] was upset and told [REDACTED] about the comment.

[REDACTED]

[REDACTED] CHIEF NUCERA had a policy which said that officers were not allowed to talk with anyone in political power. Any issues had to go through him. The officers were not allowed to speak to the township committee.

[REDACTED] heard that in 2005, [REDACTED] and former [REDACTED] were number two and one on the sergeant's list. [REDACTED] was promoted to sergeant. CHIEF NUCERA did not like [REDACTED] went to the township committee to complain. [REDACTED] stated, "You don't cross the chief." CHIEF NUCERA is the township administrator and the chief. [REDACTED] added, "He has ended people's careers."

[REDACTED]

[REDACTED] acknowledged that he has recorded some of his conversations with CHIEF NUCERA. [REDACTED]

GA059

FD-302a (Rev. 05-08-10)

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 01/24/2017, Page 3 of 6

[REDACTED]

On 10/30/2016, CHIEF NUCERA sounded off about overtime. CHIEF NUCERA called his officers, "millennial cunts and fagot pussys." He also asked who talked to the township committee. CHIEF NUCERA said the punishment would be severe and swift. CHIEF NUCERA said that he knew who it was. [REDACTED] believed that CHIEF NUCERA may have looked at the surveillance cameras in the building. [REDACTED] believed that Officer CHIARIELLO may have recorded part of the conversation with CHIEF NUCERA. Later that evening, CHIEF NUCERA called [REDACTED] at home around 7:40pm about the detective position. CHIEF NUCERA knew that [REDACTED] wanted to be a detective but he did not get the position. The detective position was given to [REDACTED]. [REDACTED] said that last year was miserable because he got screwed the most by CHIEF NUCERA.

[REDACTED] began recording CHIEF NUCERA approximately two years ago. [REDACTED] [REDACTED] [REDACTED] had been documenting the activities of CHIEF NUCERA for approximately 1 year. [REDACTED]

[REDACTED]

[REDACTED] told Officer CHIARIELLO that he was going to start recording CHIEF NUCERA.

CHIEF NUCERA busted the police union. CHIEF NUCERA did not want the police union to raise money because he thought the police union would use the money to fight him. The police union held a golf outing fundraiser.

[REDACTED] indicated that loyalty was big for CHIEF NUCERA. CHIEF NUCERA did not like disloyalty. [REDACTED] characterized Detective Sergeant SAL GUIDO as a "town crier." STAHL stated, "I don't trust SAL. He plays both sides of the fence." STAHL explained that he gave Detective Sergeant GUIDO false information and the information ultimately got back to CHIEF NUCERA.

[REDACTED]

GA060

FD-302a (Rev. 05-08-10)

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 01/24/2017, Page 4 of 6

[REDACTED] said, "(You) have to work with agita." [REDACTED] comment referred to the working conditions under CHIEF NUCERA's leadership.

NATE ROOHR was ready to leave the Bordentown Township Police Department. [REDACTED] characterized ROOHR by saying, "NATE was NATE." ROOHR was an officer who kept things "close to the vest." ROOHR is a "black and white guy, right is right and wrong is wrong."

[REDACTED] advised that he recorded several conversations with CHIEF NUCERA. He believed that he made 9 recordings using a USB recording device. [REDACTED]

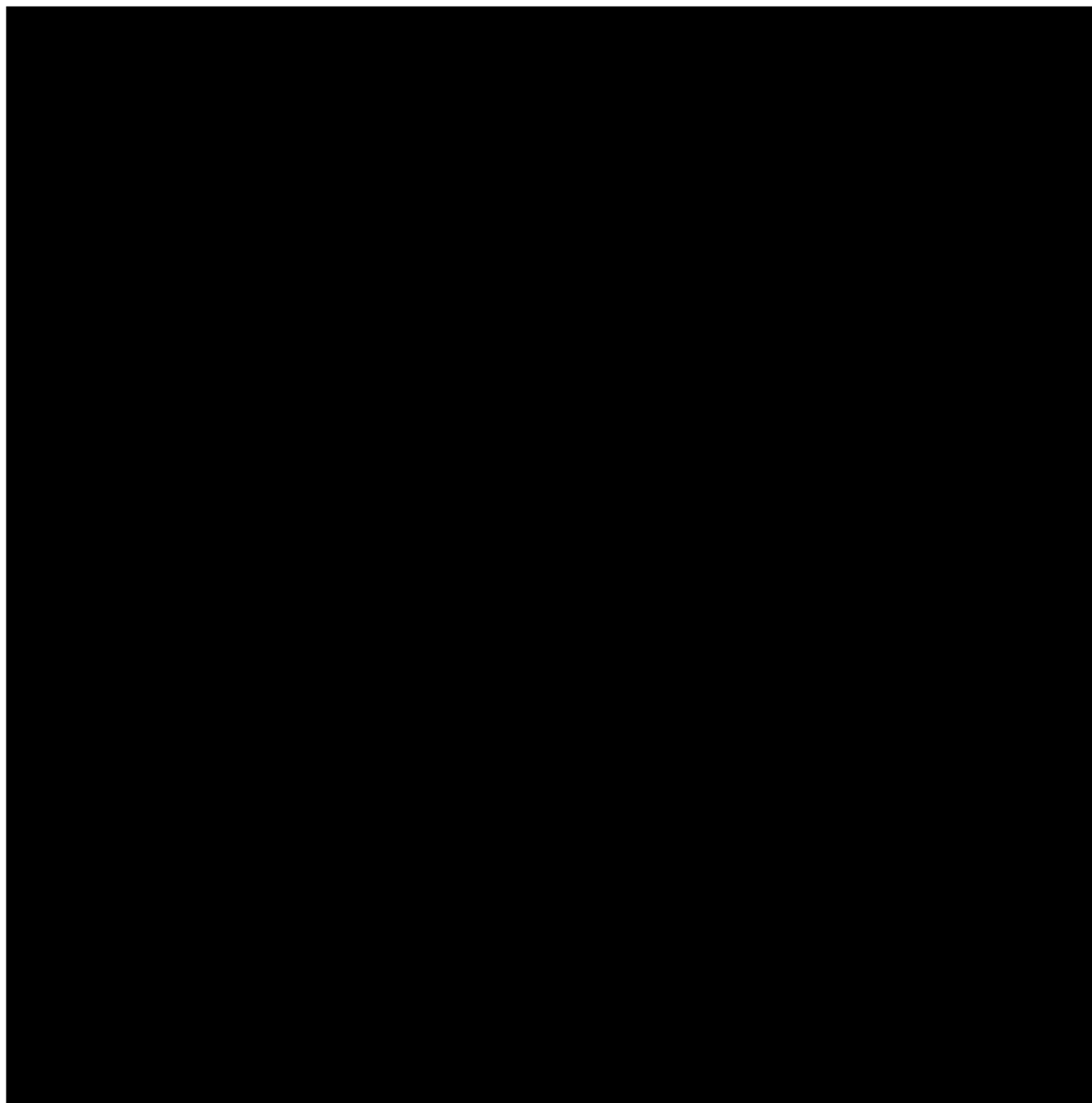
[REDACTED]

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FD-302a (Rev. 05-08-10)

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 01/24/2017, Page 5 of 6



[REDACTED] recalled that in October or November of 2016, he was working at a school with [REDACTED] and CHIEF NUCERA. CHIEF NUCERA called the Indian people that were in attendance, "sand niggers."

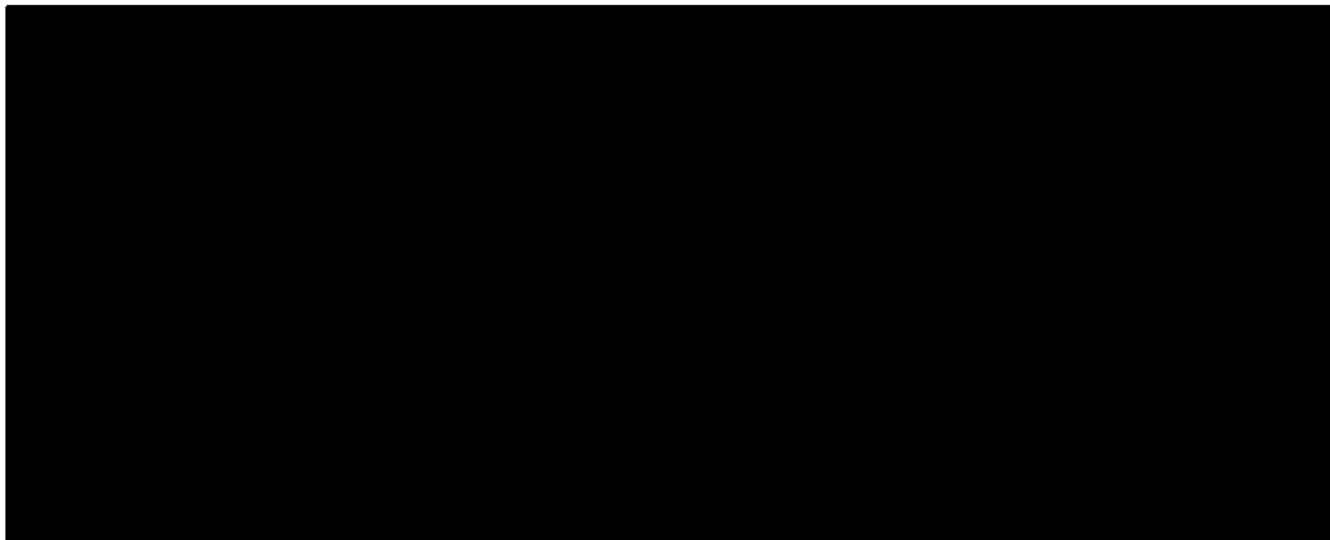
[REDACTED] explained what would happen if you challenged CHIEF NUCERA. [REDACTED] stated, "He(CHIEF NUCERA) will take your job and ruin your life." CHIEF NUCERA was under investigation by the State of New Jersey but the investigation was closed.

GA062

FD-302a (Rev. 05-08-10)

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 01/24/2017, Page 6 of 6





## FEDERAL BUREAU OF INVESTIGATION

Date of entry 03/10/2017

JAMES VINCENT CHIARIELLO III, date of birth, [REDACTED] social security number, [REDACTED], home address, [REDACTED], [REDACTED], cell phone number, [REDACTED], was advised of the identities of the interviewing agents and the purpose of the interview. CHIARIELLO provided the following information:

CHIARIELLO is currently a police officer with the Bordentown Township Police Department where he has been since 10/29/2012. He previously worked as a police officer in Camden, New Jersey from 01/11/2010 to 01/18/2011 and again from 04/09/2012 to 10/29/2012. CHIARIELLO also spent 14 months as a Temple University police officer from 03/21/2011 to 04/07/2012.

CHIARIELLO is in the patrol unit and he is currently supervised by [REDACTED]. He was previously supervised by Sergeant NATHAN ROOHR.

CHIARIELLO advised that he never witnessed CHIEF FRANK NUCERA use excessive force. He did hear that CHIEF NUCERA stepped on a drug suspect's neck. CHIEF NUCERA may have been a lieutenant at the time. In 2014, [REDACTED] told CHIARIELLO that CHIEF NUCERA pepper sprayed a woman who was handcuffed and laying on the ground. CHIARIELLO indicated that in November 2016 or possibly earlier, Sergeant ROOHR told him that CHIEF NUCERA slammed a guy's head into a door jam.

Sergeant ROOHR often told CHIARIELLO things that occurred during his shift. CHIARIELLO advised that he is close friends with Sergeant ROOHR.

CHIARIELLO advised that he did not like when CHIEF NUCERA responded to the scene of his calls for service. CHIEF NUCERA frequently escalated the situation after it had been calmed down. CHIARIELLO was handling a call at the PETRO TRUCK STOP(PETRO). An employee of the PETRO had bumped a trailer with his bobcat. CHIARIELLO had the situation under control but CHIEF NUCERA escalated the situation and claimed that the truck driver was being disorderly. CHIEF NUCERA works overtime at the PETRO.

CHIEF NUCERA is not tactically sound. CHIARIELLO was on a car stop with [REDACTED]. [REDACTED] had to pepper spray a suspect

Investigation on 02/10/2017 at Cherry Hill, New Jersey, United States (In Person)

File # 282A-NK-2108117

Date drafted 02/21/2017

by Vernon I. Addison, DURRANT III ARTHUR E

282A-NK-2108117

Continuation of FD-302 of (U) JAMES VINCENT CHIARIELLO III, On 02/10/2017, Page 2 of 8

but CHIEF NUCERA rushed CHIARIELLO to get the suspect out of the car after he was pepper sprayed.

In 2013, CHIEF NUCERA stopped a truck for a weight violation. CHIARIELLO was the backup officer. CHIEF NUCERA mocked the driver by using an Indian accent and saying, "they're Indians. They want their break." During another car stop, CHIEF NUCERA blocked a driveway and said something about "fucking Russians."

CHIARIELLO heard a recording from Sergeant ROOHR's mobile vehicle recorder(MVR). CHIARIELLO heard CHIEF NUCERA call a driver a "spicarican." Originally, Sergeant ROOHR told CHIARIELLO about the recording but later Sergeant ROOHR played the recording for CHIARIELLO.

On 10/30/2016, CHIEF NUCERA was retelling a story on the phone to someone else about a traffic control issue. As CHIEF NUCERA was telling the story he called someone "CHICO" as a derogatory term.

CHIARIELLO recalled an incident that he was told about in the fall of 2015 by Sergeant ROOHR. A Black male was arrested and later released. A police vehicle was discovered to have tire damage and CHIEF NUCERA believed that the Black male arrestee damaged the tire. According to Sergeant ROOHR, CHIEF NUCERA said, "Fucking niggers, no better than ISIS." CHIEF NUCERA also expressed that he wished he could line them up and shoot them. CHIEF NUCERA went on to say that they should be lined up and shot.

CHIARIELLO and Sergeant ROOHR discussed the notion that CHIEF NUCERA thinks that Sergeant ROOHR is from the country therefore CHIEF NUCERA can talk to Sergeant ROOHR freely using racial slurs. CHIEF NUCERA believes that Sergeant ROOHR has similar beliefs. CHIARIELLO indicated that some of the residents of Bordentown Township speak in a way that has racial overtones. CHIARIELLO heard that CHIEF NUCERA said something to [REDACTED] about not having grease in his hair.

CHIARIELLO explained that no one stood up against CHIEF NUCERA because it would be your word against his word. CHIARIELLO believed that Bordentown Township was complicit in allowing CHIEF NUCERA's bad behavior to exist because they also made him the business administrator. CHIARIELLO considered CHIEF NUCERA racist against anyone who was not White. CHIEF NUCERA referred to Black people as "out of towners." CHIARIELLO believed that Bordentown Township officials but mainly police officials knew that CHIEF NUCERA was racist. Bordentown Township is majority White and not a diverse township. The police department recently hired a second Black police officer and it only had one White female officer, who recently left the department.

282A-NK-2108117

Continuation of FD-302 of (U) JAMES VINCENT CHIARIELLO III, On 02/10/2017, Page 3 of 8

CHIARIELLO recalled what he heard about the incident at the Ramada Hotel. CHIEF NUCERA commented that (DONALD) TRUMP was going to make America great again. CHIARIELLO believed that CHIEF NUCERA was referring to White America.

Sergeant ROOHR told CHIARIELLO that CHIEF NUCERA went to Washington D.C. for a police conference. CHIEF NUCERA called one of the speakers a "nigger" while speaking with Sergeant ROOHR. Sergeant ROOHR thought that [REDACTED] [REDACTED] [REDACTED] overheard CHIEF NUCERA. Later, Sergeant ROOHR talked to [REDACTED] and told [REDACTED] that he (Sergeant ROOHR) was not racist.

CHIARIELLO acknowledged that he audio recorded CHIEF NUCERA. CHIARIELLO stated, "I think he (CHIEF NUCERA) is a piece of shit" and not fit to be a cop. CHIARIELLO stated that he heard CHIEF NUCERA call other officers "fagots" and "millennial cunts." CHIEF NUCERA used a mocking accent of Indians and called people "spicaricans." [REDACTED] [REDACTED] [REDACTED] told CHIARIELLO that CHIEF NUCERA did not like gay people.

[REDACTED]

CHIARIELLO indicated that he never heard Sergeant NUCERA use a racial slur but Sergeant NUCERA did use a mimicking tone towards other people. CHIARIELLO explained that Sergeant NUCERA would mimic "urban" language. CHIARIELLO stated, "I don't trust [REDACTED] either." According to CHIARIELLO, [REDACTED] CHIARIELLO commented that the "in" crowd gets taken care of and he is not in the "in" crowd.

CHIARIELLO provided documents regarding ticket numbers. Unofficially, an officer in patrol should write 40 to 60 tickets while a traffic unit officer should write 80 to 100 traffic tickets. Former Bordentown Township officer, [REDACTED], wrote 372 tickets in one month. CHIARIELLO is distantly related to [REDACTED] [REDACTED] now works for the Mercer County Prosecutor's Office. CHIARIELLO was never admonished about tickets by CHIEF NUCERA but [REDACTED] told him that his ticket numbers were low. This occurred in May 2013. [REDACTED] retired due to CHIEF NUCERA.


CHIARIELLO heard a recording made by Sergeant ROOHR during which CHIEF NUCERA expressed that he thought the low ticket count was due to a work stoppage. Sergeant ROOHR called CHIARIELLO, HESS, and [REDACTED] regarding their ticket numbers. CHIARIELLO was written up shortly after the recording. He called out sick on Veteran's Day and forgot to bring a

GA066

282A-NK-2108117

Continuation of FD-302 of (U) JAMES VINCENT CHIARIELLO III, On 02/10/2017, Page 4 of 8


doctor's note into work. CHIEF NUCERA docked his pay approximately \$500. CHIARIELLO believed that his pay was docked as retaliation for his ticket numbers. Officer (ERICH) HESS also had his pay docked. CHIARIELLO and HESS filed a grievance alleging possibly retaliation. HESS had an argument with CHIEF NUCERA. Later, CHIEF NUCERA approached CHIARIELLO regarding his docked pay. CHIARIELLO got his pay back.



CHIARIELLO explained that CHIEF NUCERA judged the officers by the number of tickets that they wrote. CHIEF NUCERA would also say that it was not his job to boost morale. It was the supervisor's job to boost morale.

CHIARIELLO heard about what occurred at the Ramada Hotel. Detective Sergeant SAL GUIDO and CHIEF NUCERA were escorting an arrestee. Sergeant ROOHR was also present. The male arrestee was talking "shit" and then CHIEF NUCERA slammed the arrestee's head into a door.

CHIARIELLO told Sergeant ROOHR in 2015 that he should start recording his conversations with CHIEF NUCERA. Sergeant ROOHR may have talked with JAKE ARCHER, a former Burlington Township Police Officer and current FBI Special Agent, about issues with CHIEF NUCERA.



282A-NK-2108117

Continuation of FD-302 of (U) JAMES VINCENT CHIARIELLO III , On 02/10/2017 , Page 5 of 8

[REDACTED]

The system that CHIEF NUCERA used for overtime was not fair. Whoever signed up first for an overtime assignment should have received the assignment. CHIEF NUCERA did not post road jobs, he only texted out the need to fill the assignments. Sometimes CHIEF NUCERA would have Sergeant NUCERA and occasionally Captain PESCE text out the need to fill a road job assignment. CHIEF NUCERA would also send his text messages with angry emoticons.

[REDACTED]

[REDACTED]

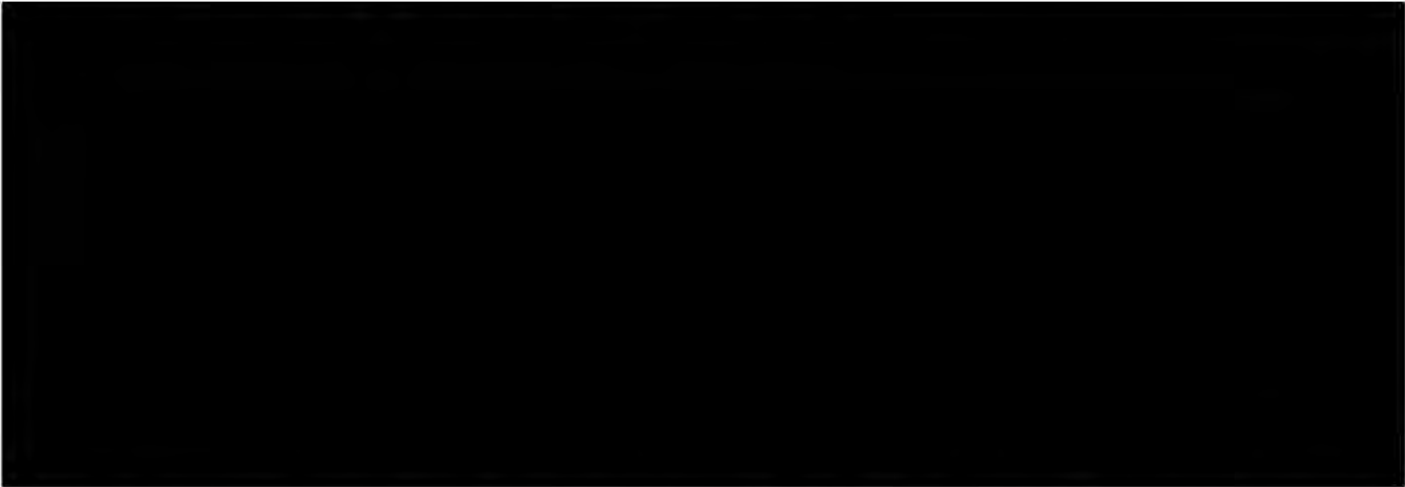
[REDACTED] Someone spoke to a Bordentown Township committee member and it got back to CHIEF NUCERA. CHIEF NUCERA threatened that there would be a price to pay if he found out who spoke with the

GA068

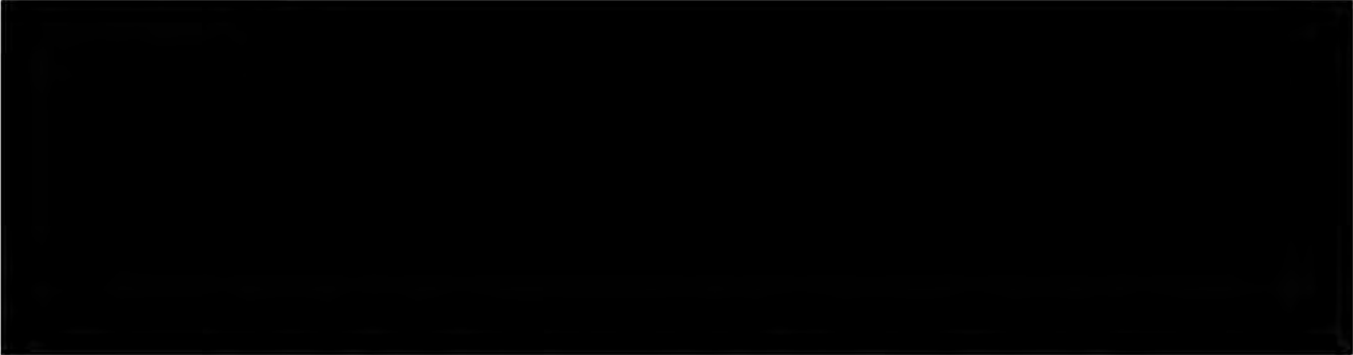


282A-NK-2108117

Continuation of FD-302 of (U) JAMES VINCENT CHIARIELLO III, On 02/10/2017, Page 6 of 8


township committee about the payroll problem. Some officers talked about and suggested sending their wives or other family members to the township committee meetings to address their complaints.



CHIARIELLO advised that the conditions at the Bordentown Township Police Department are a lot better since CHIEF NUCERA left. CHIARIELLO advised that he has already received a commendation for his work since CHIEF NUCERA left.



Sergeant NUCERA is not CHIARIELLO's "type of person or cop." CHIARIELLO indicated that Sergeant NUCERA knew how to do his job and was a good cop. CHIARIELLO explained that the mentality at the police department was to give everyone traffic tickets but this was not his mentality.



282A-NK-2108117

Continuation of FD-302 of (U) JAMES VINCENT CHIARIELLO III, On 02/10/2017, Page 7 of 8

[REDACTED]

CHIARIELLO indicated that he has not heard anyone else at the Bordentown Township Police Department use racial slurs. CHIARIELLO advised that he never heard Sergeant ROOHR use any racial slurs. CHIARIELLO also indicated that all of the complaints against CHIEF NUCERA were not vindictive. CHIARIELLO recalled CHIEF NUCERA telling Sergeant [REDACTED] that Sergeant ROOHR was "softer than baby shit." CHIARIELLO described Detective Sergeant SAL GUIDO as "lazy but not a bad guy." CHIARIELLO stated that [REDACTED] handles most of the detective work for the police department. In the past, Detective Sergeant GUIDO made comments that he did not like CHIEF NUCERA but the comments were not vindictive in nature. CHIARIELLO heard that Detective Sergeant GUIDO would tell CHIEF NUCERA what was said in union meetings. The officers that had a close relationship with CHIEF NUCERA were retired Captain HAND and Sergeant NUCERA. Lieutenant MOUNT was close with CHIEF NUCERA before CHIEF NUCERA changed his work shift.

CHIARIELLO commented about his experience when he first joined the Bordentown Township Police Department. CHIARIELLO stated, "(I) didn't get a good vibe from people." CHIARIELLO claimed that now he realizes that there is a good group of people working for the police department.

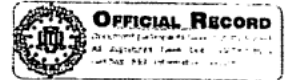
CHIARIELLO advised that he was sued in federal court for an alleged civil rights violation. CHIARIELLO acknowledged that he used appropriate force to push a suspect and take him to the ground. The allegation was that the suspect was beaten in a cell. The federal suit pertained to a 2010 arrest while he was employed as a police officer for the City of Camden. CHIARIELLO was not sued until he was hired by Bordentown Township Police and he was one of several defendants. The federal suit was settled with an agreement approved by a federal judge. CHIARIELLO also advised that he had a demeanor complaint against him while he was an officer in Camden. The complaint was not sustained after an internal affairs review.

CHIARIELLO advised that he would get all of his documents together and recordings and provide them at a later date.

GA070

282A-NK-2108117

Continuation of FD-302 of (U) JAMES VINCENT CHIARIELLO III , On 02/10/2017 , Page 8 of 8



## FEDERAL BUREAU OF INVESTIGATION

Date of entry 01/31/2017

[REDACTED] date of birth, [REDACTED], social security number, [REDACTED], [REDACTED], cell phone number, [REDACTED], was advised of the identities of the interviewing agents and the purpose of the interview. [REDACTED] provided the following information:

[REDACTED] was hired in 09/2014 by the Bordentown Township Police Department as a patrol officer. He was previously employed as a plumber.

[REDACTED] expressed that the work environment under CHIEF FRANK NUCERA was not good. [REDACTED] and 2 additional officers started a Google drive to document things that CHIEF NUCERA did that were questionable. Most of the situations and/or actions that [REDACTED] documented were contract disputes. [REDACTED] is currently the Burlington Township Police Association (BTPA) secretary. The BTPA is the union for the police officers below the rank of sergeant.

[REDACTED] heard rumors that CHIEF NUCERA forced officers that he did not like out of the police department.

[REDACTED] recalled a domestic violence call at the Best Western Hotel. He and [REDACTED] responded. CHIEF NUCERA and Lieutenant [REDACTED] were also present. [REDACTED] was there prior to [REDACTED]. The suspect of the domestic violence call was a Black male. [REDACTED] mainly dealt with the Black female involved in the domestic. CHIEF NUCERA was overly aggressive with the Black male. CHIEF NUCERA got in the Black male's face and talked down to him. The Black male said that CHIEF NUCERA was being racist.

[REDACTED] decided to start recording on his mobile video recorder (MVR) because the Black male was calling CHIEF NUCERA racist. The Black male was arrested for domestic violence. This incident occurred in the fall of 2016, possibly October, November, or December.

[REDACTED] acknowledged that he has attempted to record and has recorded his conversations with CHIEF NUCERA. [REDACTED] advised that he only captured a couple conversations. [REDACTED] indicated that he decided to

Investigation on 01/18/2017 at Bordentown, New Jersey, United States (In Person)

File # 282A-NK-2108117

Date drafted 01/26/2017

by Vernon I. Addison, DURRANT III ARTHUR E

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 01/18/2017, Page 2 of 3

record CHIEF NUCERA because he was concerned about the way CHIEF NUCERA spoke to the officers. CHIEF NUCERA berated [REDACTED] and screamed at him. CHIEF NUCERA's behavior made [REDACTED] feel uncomfortable. This occurred in the summer of 2016.

[REDACTED] advised that he has not removed or deleted any of his recordings. [REDACTED] was concerned that he may have intercepted other conversations occurring around him which he characterized as locker room talk.

CHIEF NUCERA worked overtime for PSE&G on Route 206. CHIEF NUCERA left his post multiple times and he required other officers to cover for him while he went to the police department. [REDACTED] advised that there were always rumors that CHIEF NUCERA was "double dipping." [REDACTED] commented, how can he be chief, business administrator, and do overtime. [REDACTED] stated, "if he(CHIEF NUCERA) didn't retire, I was going to apply somewhere else." [REDACTED] stated that he knew of an instance when CHIEF NUCERA was supposed to be working overtime at the Petro Truck Stop but was actually working overtime at a road detail.

[REDACTED] indicated that there were rumors that CHIEF NUCERA was racist but [REDACTED] never heard CHIEF NUCERA say anything racist. [REDACTED]

[REDACTED] stated that Captain BRIAN PESCE is like an angel compared to CHIEF NUCERA.

[REDACTED] heard rumors that CHIEF NUCERA's township administrator pension was being roled into his police pension. [REDACTED]

[REDACTED] described CHIEF NUCERA as a "scumbag and asshole." Contractually, CHIEF NUCERA stole from the officers. [REDACTED]

[REDACTED] also indicated that his job performance hinged on the number of motor vehicle tickets he wrote.

[REDACTED] recalled that the New Jersey Division of Criminal Justice had a case against CHIEF NUCERA for [REDACTED] [REDACTED] did not know what occurred in the case.

FD-302a (Rev. 05-08-10)

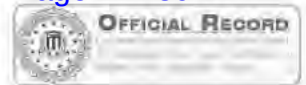
282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 01/18/2017, Page 3 of 3

[REDACTED] advised that he had to locate the recordings and the Google drive information but he agreed to voluntarily provide it once it was retrieved.

A short time after the interview was concluded, [REDACTED] emailed the information from his Google drive to Special Agent Addison. It will be placed in a FD-340.

GA074



UNCLASSIFIED//FOUO

## FEDERAL BUREAU OF INVESTIGATION

Date of entry 05/10/2017

██████████ born ██████████, social security account number ██████████, of ██████████ ██████████ ██████████, cellular telephone number ██████████, was interviewed inside his residence on Tuesday, 05/09/2017, by Special Agent (SA) Vernon I. Addison and SA Arthur E. Durrant, III, Federal Bureau of Investigation (FBI). After being advised of the identities of the interviewers and the nature of the interview, ██████████ provided the following information:

██████████ In or around 2005, ██████████ was hired as a police officer by the Bordentown City Police Department. In or around 2011, ██████████ was hired as a police officer by the Bordentown Township Police Department (BTPD). ██████████ is a police officer. In or around 2013 or 2014, he spent about six (6) months at the Burlington County Prosecutor's Office working narcotics investigations. He is also a part-time Task Force Officer (TFO) assigned to the Drug Enforcement Agency (DEA). He has been a K9 officer for the past two or three years. He has a German Shepherd dog, Boston, who is trained in patrol and drug detection.

██████████ cannot recall any incident where he witnessed former Police Chief FRANK NUCERA, JUNIOR (NUCERA), use what he would describe as excessive force. ██████████ has witnessed him escalate many situations. He has also seen NUCERA use what he considered to be "unnecessary" force. For example, ██████████ recalled receiving a call from police radio about a juvenile female who was in a vehicle with her mother and being "aggressive" with her mom. ██████████ saw the vehicle and pulled it over. There was a fifteen (15) year old female in the back seat who was yelling. ██████████ tried to calm the juvenile down. NUCERA arrived on the scene and began yelling at the juvenile. NUCERA then proceeded to wrestle the female out of the vehicle and arrest her. ██████████ escorted the handcuffed female to his police car and she intentionally bumped into him. NUCERA saw it and told ██████████ to add an additional charge of aggravated assault. ██████████ complied with the order but he considered it to be excessive.

When police bring an arrested individual into the station, the person first enters a small holding cell area. The area is enclosed but has a window which is about six inches by six inches. The holding area has a door which leads into the cell area. The prisoner is placed in the holding

UNCLASSIFIED//FOUO

Investigation on 05/09/2017 at Bordentown Township, New Jersey, United States (In Person)

File # 282A-NK-2108117 Date drafted 05/09/2017

by DURRANT III ARTHUR E, Vernon I. Addison

UNCLASSIFIED//FOUO

282A-NK-2108117

(U//FOUO) [REDACTED] on 05/09

05/09

Continuation of FD-302 of [REDACTED] /2017.

/2017

Page 2 of 5

area when first brought in. The officer then walks around to the cell area, opens the door and brings the prisoner into the cell area. If a prisoner was belligerent when entering the holding area, [REDACTED] would try to calm the prisoner down. NUCERA would commonly look through the window and start yelling at the prisoner. This often infuriated the prisoner. When [REDACTED] or other officers opened the door to bring the prisoner into the cell area, the prisoner was now enraged and offered resistance.

[REDACTED] knows that there was a fight amongst parents at a high school basketball playoff game. NUCERA then had multiple K9 dogs at the basketball games where the attendance was high. NUCERA made the officers park in front of the front door facing the school. NUCERA specifically wanted the dogs park in that area so people were forced to walk by the vehicles which made the dogs bark. NUCERA used the dogs for intimidation and [REDACTED] believes that is inconsistent with the K9 training he received.

NUCERA also told a school official at one game that a BT Fire Marshal said there were too many people in the gym. [REDACTED] believes NUCERA lied to the official because the Fire Marshal was not there.

[REDACTED] considers NUCERA to be a "Traffic Nazi." NUCERA only seemed to care about traffic tickets issued and revenue. In 2016, [REDACTED] believes that BTPD officers issued over fifteen thousand tickets in a town that is ten square miles. [REDACTED] and other officers considered that excessive. [REDACTED] believes NUCERA wanted revenue for Bordentown Township (BT) because the town receives a percentage of the tickets.

NUCERA used to make the police officers issue tickets to trucks along Dunns Mill Road. It was a specific violation. The fine was \$85.00 and BT received a large percentage of that fine as revenue.

[REDACTED] believes that NUCERA allowed him to be a part-time TFO for the DEA because BT was eligible to receive seizure and forfeiture assets.

NUCERA really tried to minimize on-duty overtime paid by BT.

NUCERA worked a lot of hours. [REDACTED] considered NUCERA to be a "workaholic." NUCERA worked as a police chief and a town administrator. NUCERA was on police radio in the morning and at 10:00 PM. NUCERA worked on his days off too. NUCERA also worked a lot of off-duty overtime assignments. [REDACTED]  
[REDACTED]

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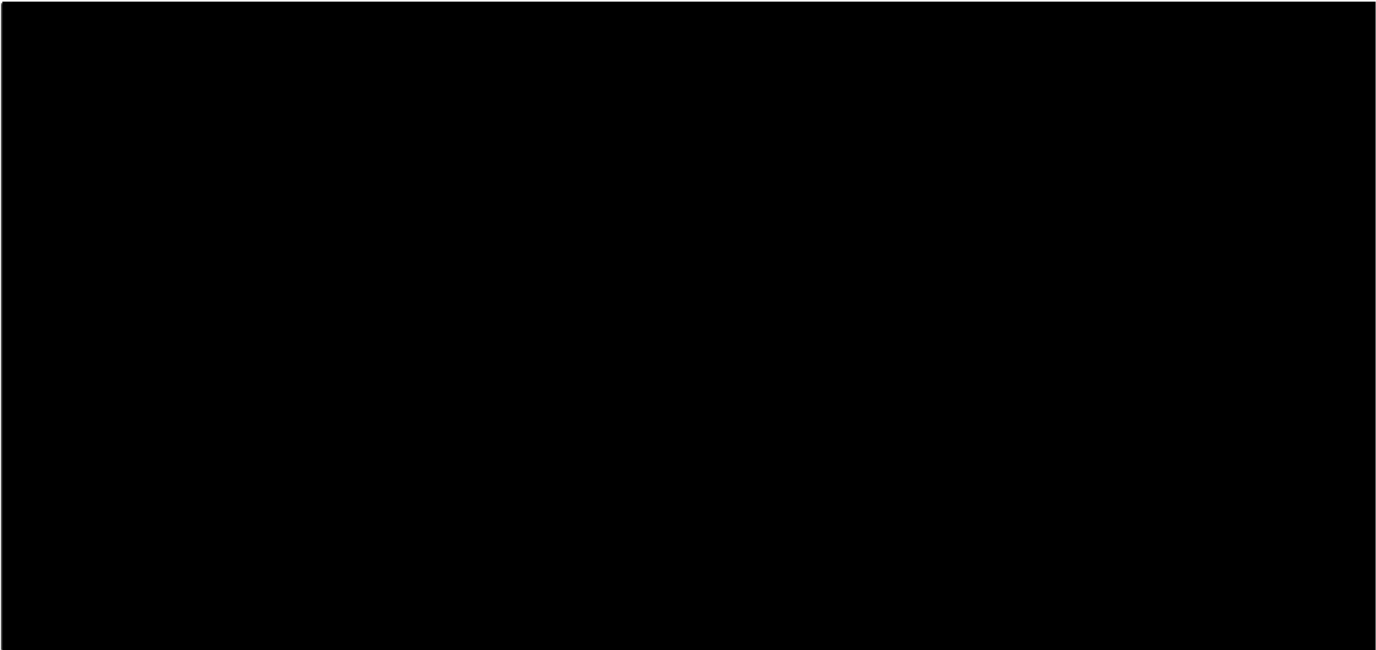
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282A-NK-2108117

(U//FOUO) [REDACTED] interview on 05/09 05/09  
Continuation of FD-302 of [REDACTED] /2017. , On /2017 , Page 3 of 5

[REDACTED] and others believe that NUCERA took many of the off-duty overtime assignments for himself. NUCERA would say that officers did not volunteer for shifts but [REDACTED] would later hear from some officers that they had volunteered for those assignments.



[REDACTED] heard that some officers recorded conversations with NUCERA. [REDACTED] did not attempt to record any conversations with NUCERA. [REDACTED] was able to "fly below the radar" with NUCERA. He was not in trouble with NUCERA very often. NUCERA seemed to target certain people like [REDACTED]  
[REDACTED]



[REDACTED] has heard NUCERA "drop the N bomb." [REDACTED] recalled that on or about the night that the officer was not convicted in the shooting of MICHAEL BROWN in Ferguson, Missouri. [REDACTED] recalls that there were

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GA077

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282A-NK-2108117

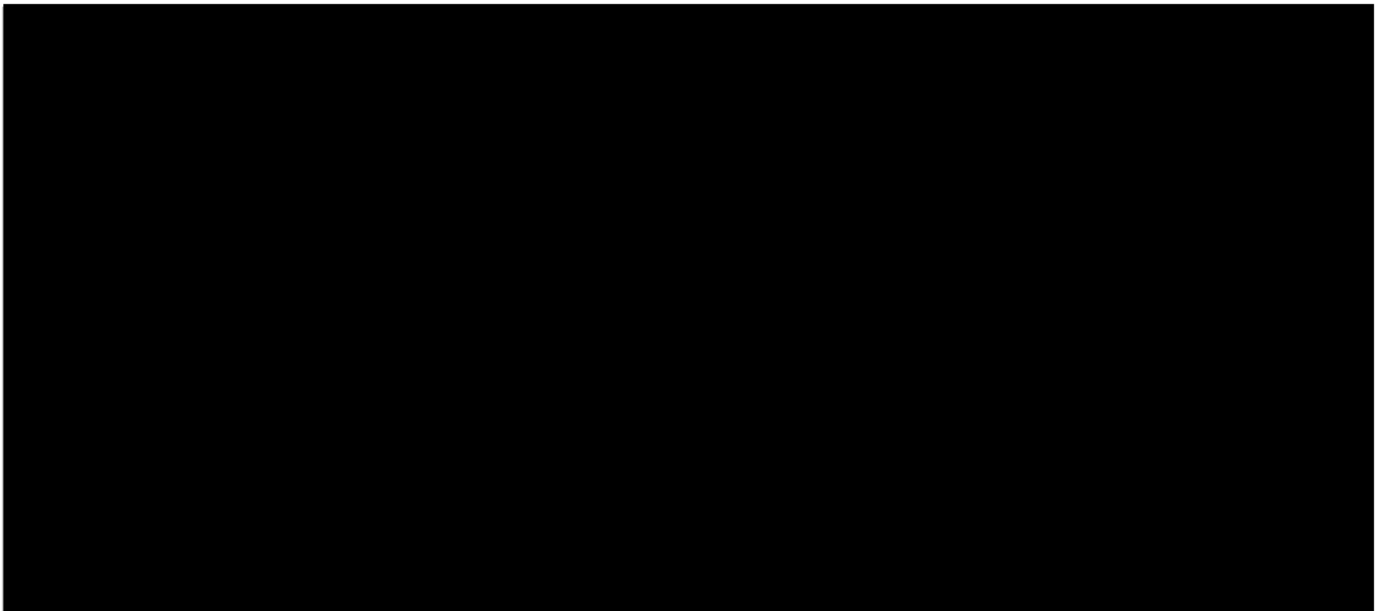
(U//FOUO) [REDACTED] interview on 05/09 05/09  
Continuation of FD-302 of [REDACTED] /2017. On /2017 Page 4 of 5

concerns of rioting in and around BT. NUCERA was working an off-duty overtime assignment at the PETRO TRUCK STOP (PETRO). NUCERA saw [REDACTED] and told him to call him if there were any problems. [REDACTED] saw NUCERA the next morning outside of the police station. NUCERA told [REDACTED] words to the effect of, "These N's are out of control. They're animals."

[REDACTED] has a rough recollection of NUCERA making derogatory comments about people of Middle Eastern descent. [REDACTED] cannot presently recall a specific example.

[REDACTED] recalls another incident involving NUCERA at the BEST WESTERN. NUCERA and MOUNT were at an off-duty overtime assignment at the BEST WESTERN. NUCERA saw a black or Hispanic female crying in the parking lot area. NUCERA approached the woman and she reportedly told NUCERA that a black male hit her in the head with a fruit cup in their hotel room. The black male came out of the room and appeared. NUCERA called for a police unit and [REDACTED] arrived on the scene. NUCERA was talking sternly to the male. The male did not respond. NUCERA started yelling and said to the male words to the effect of, "You can talk to me when I talk to you." The male asked NUCERA why he was yelling at him. NUCERA then made a comment to the male and said "you people." [REDACTED] and the male understood this comment to mean black people.

NUCERA had the male arrested for domestic violence. The male reportedly filed a complaint with the BTPD about the manner in which NUCERA had spoken to him.



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GA078

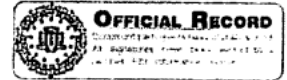
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282A-NK-2108117

(U//FOUO) [REDACTED] interview on 05/09  
Continuation of FD-302 of /2017. , On 05/09 /2017 , Page 5 of 5

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GA079

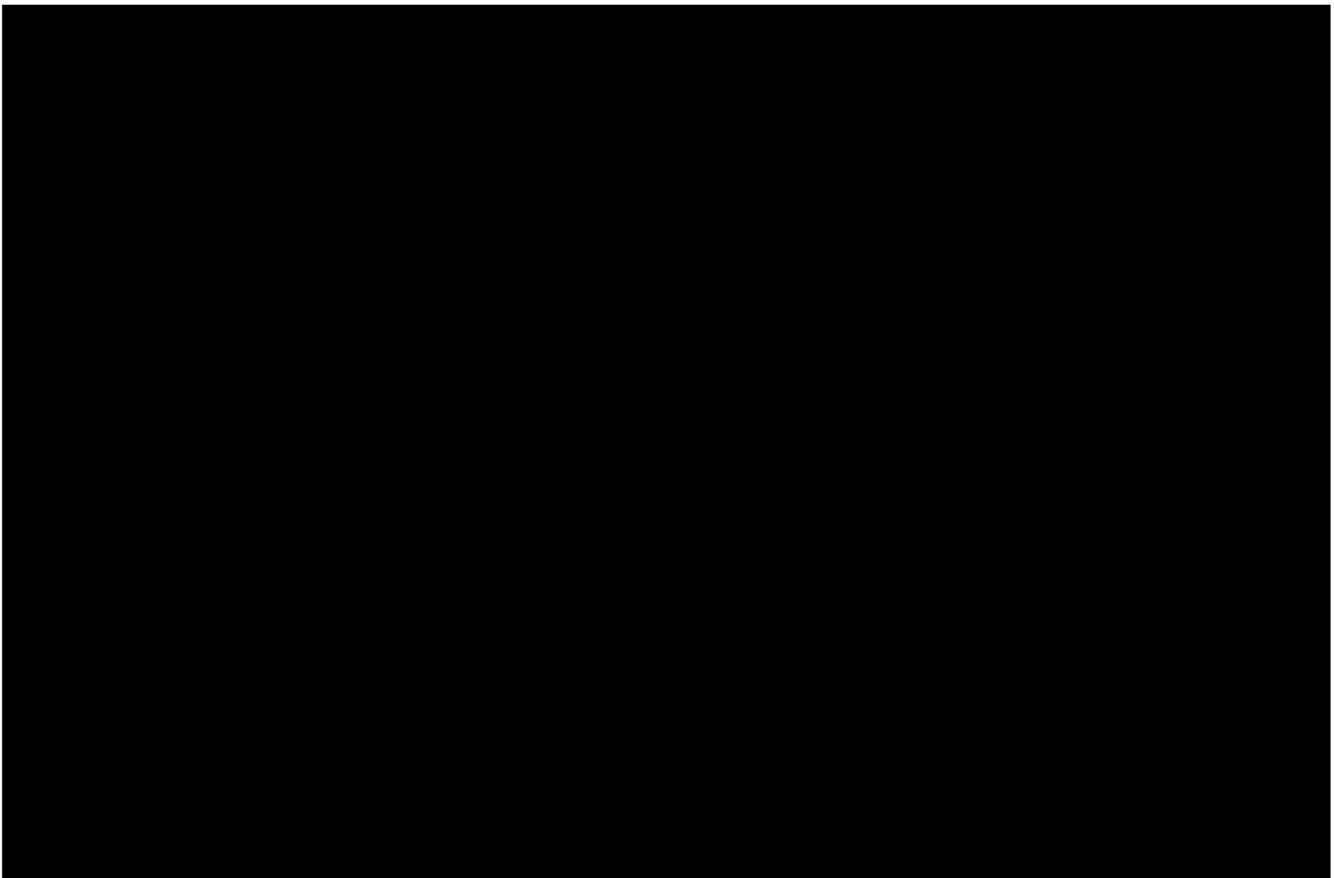


## FEDERAL BUREAU OF INVESTIGATION

Date of entry 02/01/2017

[REDACTED] date of birth, [REDACTED], social security number, [REDACTED], home address, [REDACTED] cell phone number, [REDACTED], work cell phone number, [REDACTED], was advised of the identities of the interviewing agents and the purpose of the interview. [REDACTED] provided the following information:

[REDACTED] was hired by the Bordentown Township Police Department in 08/1998 as a patrol officer. [REDACTED] is currently a canine officer and has been a canine officer for the past 12 years.



[REDACTED] stated, "he(CHIEF NUCERA) will keep coming for you coming for you until he annihilates you." [REDACTED] characterized working for CHIEF

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Investigation on 01/26/2017 at Yardville, New Jersey, United States (In Person)File # 282A-NK-2108117Date drafted 01/30/2017by Vernon I. Addison, DURRANT III ARTHUR E

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282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 01/26/2017, Page 2 of 6

NUCERA like being in a domestic violence relationship and that is why officers did not go against CHIEF NUCERA. Former Bordentown Township [REDACTED] went against CHIEF NUCERA. CHIEF NUCERA got rid of [REDACTED] but [REDACTED] believed that he deserved to be removed.

[REDACTED] advised that he heard CHIEF NUCERA use an ethnic slur during a cultural event at Bordentown High School. An Indian group rented out the high school gymnasium and [REDACTED] and CHIEF NUCERA were working security for the event. CHIEF NUCERA called the Indian group, "sand niggers." CHIEF NUCERA told [REDACTED] that he did not like Indians and CHIEF NUCERA questioned why the Indian group had to come to Bordentown.

CHIEF NUCERA and [REDACTED] were working security for a football game at the old high school. Bordentown High School was playing against a team from Riverside, New Jersey. Riverside, New Jersey is a more diverse community than Bordentown, New Jersey. More Black people live in Riverside and subsequently more Black people attend games. [REDACTED] stated that CHIEF NUCERA bitched about all the "river town's niggers or mulignans," and he wanted them to go somewhere else.

[REDACTED] never attempted to audio record conversations with CHIEF NUCERA. [REDACTED] explained that according to an old standard operating procedure(S.O.P.) an officer was not supposed to record command level personnel.

[REDACTED] commented, "he(CHIEF NUCERA) has always been tickets tickets tickets."

[REDACTED] recalled an instance when CHIEF NUCERA used the phrase "you(s) people" as a racially derogatory term. CHIEF NUCERA was working off duty for PSE&G but was waiting at the Best Western. [REDACTED] was off duty but trying to complete an op plan and get it signed by the prosecutor's office when CHIEF NUCERA contacted him and made the comment.

[REDACTED] had no direct knowledge of CHIEF NUCERA calling an African American the "n" word face to face, but [REDACTED] heard that CHIEF NUCERA did use that term against prisoners in the cell block. [REDACTED] indicated that he tried his best to stay away from CHIEF NUCERA.

[REDACTED]

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 01/26/2017, Page 3 of 6

[REDACTED] explained that the officers on the Bordentown Township Police Department started to band together against CHIEF NUCERA. [REDACTED] stated that CHIEF NUCERA operated using the method of divide and conquer.

[REDACTED] stated, "CHIEF has kept [REDACTED] down." [REDACTED] is third in charge of the police department. CHIEF NUCERA had been trying to force [REDACTED] to retire. CHIEF NUCERA put [REDACTED] on a terrible work schedule. [REDACTED] is the court officer during the week which requires him to work day shift but on Friday and Saturday, CHIEF NUCERA scheduled [REDACTED] to work 7pm to 3am covering street patrol just like a traffic officer. [REDACTED] schedule only affords him one day off and half of another day off.

[REDACTED] indicated that over the years [REDACTED] has done everything CHIEF NUCERA has asked of him. CHIEF NUCERA may have been trying to create a spot for his son, [REDACTED], to become a lieutenant if [REDACTED] retired.

[REDACTED] stated, "SAL (Detective Sergeant SAL GUIDO) would be one who would try to protect the CHIEF." [REDACTED] continued by saying that GUIDO liked to stir the pot against CHIEF NUCERA but then back off when it was time to act. [REDACTED] did not know if GUIDO had any grudge against CHIEF NUCERA. [REDACTED] stated, "SAL's a politician. He plays the game for his benefit."

Continuation of FD-302 of (U) [REDACTED], On 01/26/2017, Page 4 of 6

[REDACTED] advised that if you are not on CHIEF NUCERA's team then CHIEF NUCERA would give you problems. BRETTELL advised that he received a fair amount of overtime assignments. [REDACTED]

GA083

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 01/26/2017, Page 5 of 6

[REDACTED] advised that SHELLY would look out for the officers. Former Bordentown Township officers, [REDACTED] [REDACTED] and [REDACTED] stood up to CHIEF NUCERA. [REDACTED] later committed suicide and [REDACTED] was investigated after being accused by the Burlington County Prosecutor's Office of filing a false report against CHIEF NUCERA. [REDACTED] stated, "(he) is less fearful of getting shot than of Frank(CHIEF NUCERA)."

Prior to 2005, the officers banded together and went to the town council regarding issues at the department. CHIEF NUCERA was not chief at the time. [REDACTED] believed that what the officers did was an eye opener to CHIEF NUCERA and something he wanted to prevent.

CHIEF NUCERA, township clerk COLLEEN LNU, and the township attorney each have one third of the responsibility for the township administrator position in title and pay but in reality CHIEF NUCERA runs everything.

[REDACTED] advised that all of the officers seem much happier now that CHIEF NUCERA is gone. [REDACTED] advised that he only saw CHIEF NUCERA once since he learned that CHIEF NUCERA was retiring.

[REDACTED] advised that he is 90% sure that GUIDO gave CHIEF NUCERA

FD-302a (Rev. 05-08-10)

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 01/26/2017, Page 6 of 6

information over the years about what other officers were saying about CHIEF NUCERA. GUIDO was always probing for information about what the Bordentown Township Police Officer's Association (BTPA) was doing. The BTPA decided to have a golf outing to raise money for needy families. GUIDO originally was in favor of the outing but then did not want to help. GUIDO later wanted to know how much money was raised possibly so he could tell CHIEF NUCERA. GUIDO had the reputation of being a "ticket monster" among community members.

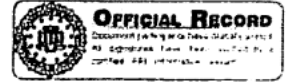
CHIEF NUCERA always seemed to know what was going on within the police department. This prevented the officers from uniting because they did not know who to trust.

[REDACTED]

[REDACTED] stated, "(the) CHIEF likes the show of force, the bravado." CHIEF NUCERA likes intimidation. [REDACTED] advised that his canines are not patrol dogs. His dogs are not certified for patrol. CHIEF NUCERA never approached [REDACTED] directly but CHIEF NUCERA did ask [REDACTED] sergeant why [REDACTED] did not use his dog to intimidate a crowd during a fight call at ALL STARS RESTAURANT on Route 130. [REDACTED] commented that it would not be appropriate to deploy his dogs.

[REDACTED]

GA085



## FEDERAL BUREAU OF INVESTIGATION

Date of entry 01/26/2017

[REDACTED], date of birth, [REDACTED], social security number, [REDACTED], home address, [REDACTED], [REDACTED], cell phone number, [REDACTED], was advised of the identities of the interviewing agents and the purpose of the interview. [REDACTED] provided the following information:

[REDACTED] has been employed as a police officer with the Bordentown Township Police Department since 2014 [REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] explained some of the concerns he had about CHIEF FRANK NUCERA. CHIEF NUCERA would answer/respond to radio calls and his demeanor once he arrived on-scene was an issue. CHIEF NUCERA worked a lot of overtime. He scheduled himself to work overtime at the Petro Truck Stop from 5am until 8am every morning. Sometimes, CHIEF NUCERA would leave during his overtime shift to go to police headquarters and then return to his overtime detail later.

[REDACTED] stated that he has not been on a call when force was necessary and used. He has not been on a call with CHIEF NUCERA when force was used.

[REDACTED]

Investigation on 01/20/2017 at Hamilton, New Jersey, United States (In Person)

File # 282A-NK-2108117

Date drafted 01/25/2017

by Vernon I. Addison, DURRANT III ARTHUR E

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GA086

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 01/20/2017, Page 2 of 4

[REDACTED]

Officers warned [REDACTED] that other officers have grieved CHIEF NUCERA's actions and were later terminated. [REDACTED] suggested that all of the Bordentown Township officers file a grievance. [REDACTED] advised that he is [REDACTED] years old and he knows what is right and what is wrong. [REDACTED] recalled that CHIEF NUCERA got angry at another officer who questioned whether he was required to finish his shift after he finished a training class. CHIEF NUCERA decided to make every officer return to work after their training was complete. CHIEF NUCERA required [REDACTED] to return to work after his training even though [REDACTED] training was scheduled on his day off. [REDACTED] commented that CHIEF NUCERA would not allow officers to identify and attend training on their own.

[REDACTED]

[REDACTED] was told by other officers that CHIEF NUCERA used racial slurs. Officer [REDACTED] told [REDACTED] about an incident when an Indian motorist was attempting to get directions from an officer at a PSE&G traffic detail. CHIEF NUCERA told the officer to get the Indian motorist out of the area. CHIEF NUCERA later commented to the officer that the Indian motorist was a "sand nigger." CHIEF NUCERA also made a comment to Officer [REDACTED] who is African American, about his greasy hat. [REDACTED] believed that the comment to Officer [REDACTED] occurred years ago. [REDACTED] recalled that he was working a detail at the high school with CHIEF NUCERA and another officer. The other officer told [REDACTED] that CHIEF NUCERA became angry about something and yelled profanity at the top of his lungs at a coordinator for the school. [REDACTED] could not remember which

282A-NK-2108117

Continuation of FD-302 of (U) [REDACTED], On 01/20/2017, Page 3 of 4

officer he worked with at the event. [REDACTED] was working on the other side of the gym at the time.

CHIEF NUCERA can often be heard yelling out profanities while he is alone in his office at police headquarters. CHIEF NUCERA hates stapled time sheets and will yell at anyone turns in their time sheets stapled.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] commented, "(the) CHIEF loves tickets and more than he likes lockups." [REDACTED] recalled that he had a good drug arrest but all he received from CHIEF NUCERA was a pat on the back. CHIEF NUCERA does not give out commendations. [REDACTED] sergeant told him to write 50 to 60 tickets per month as per CHIEF NUCERA. A traffic officer named [REDACTED] wrote 250 tickets in a month. [REDACTED] acknowledged that CHIEF NUCERA never took away his discretion regarding warnings verses tickets.

[REDACTED] indicated that other officers have told him that CHIEF NUCERA does not like Black people. [REDACTED] is not aware of CHIEF NUCERA saying slurs about women, Latinos, or any other group except Indians. CHIEF NUCERA did not direct him to conduct traffic stops on certain ethnic groups. [REDACTED] commented, "he(CHIEF NUCERA) just cares about tickets, the money part of it." CHIEF NUCERA did seem to care about drugs due to the increase in NARCAN use by the officers.

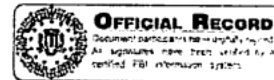
[REDACTED] believed that CHIEF NUCERA began posting each officer's ticket and arrest numbers for all to see. [REDACTED] reiterated that he was told by different sergeants to get his ticket numbers up. [REDACTED] stated, "I shouldn't be forced to write tickets."

[REDACTED]

Continuation of FD-302 of (U) [REDACTED], On 01/20/2017, Page 4 of 4

██████████ agreed to voluntarily provide his photos, voice memos, audio recordings, and written memos to the FBI. ██████████

██████████ advised that it was rumored that CHIEF NUCERA was going to be indicted twice but was not. ██████████



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## FEDERAL BUREAU OF INVESTIGATION

Date of entry 03/09/2017

[REDACTED]

[REDACTED] born [REDACTED], social security account number [REDACTED], of [REDACTED], cellular telephone number [REDACTED] was interviewed on Friday, 02/24/2017, inside his residence by Special Agent (SA) Vernon I. Addison and SA Arthur E. Durrant, III, Federal Bureau of Investigation (FBI). After being advised of the identities of the interviewers and the nature of the interview, FORSTER provided the following information:

[REDACTED]

The first time [REDACTED] recalled responding to a police call with BTPD Police Chief FRANK M. NUCERA (NUCERA) was in 2013 or 2014. [REDACTED] received a radio call for suspicious persons at [REDACTED], at the South Gate Apartment Complex. There were three (3) black males by the rear of a vehicle. [REDACTED] and NUCERA responded to the call and located the males. [REDACTED] was talking to the males without incident. NUCERA arrived on the scene and escalated the situation. NUCERA asked for

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Investigation on 02/24/2017 at Bordentown Township, New Jersey, United States (In Person)

File # 282A-NK-2108117

Date drafted 02/24/2017

by DURRANT III ARTHUR E, Vernon I. Addison

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GA090

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282A-NK-2108117

(U//FOUO) [REDACTED] interview on 02/24/2017. On 02/24/2017 Page 2 of 5  
 Continuation of FD-302 of 02/24/2017. ~~their names and the one man asked why NUCERA wanted his name. The man's~~

response agitated NUCERA and he began yelling and pointing at the man. The men then became agitated as well. [REDACTED] felt the need to raise his voice too in an effort to "protect" his Chief.

[REDACTED] cannot recall any incident where he witnessed NUCERA use what he considered to be excessive force. [REDACTED]

[REDACTED]

[REDACTED] highlighted that NUCERA "ran everything here." NUCERA was the BTPD Police Chief and he was the BT Business Administrator. He was also very involved the town's finances and construction.

[REDACTED] recalled an incident wherein [REDACTED] had stopped or arrested a black male. Former BTPD [REDACTED] stopped the same guy in a vehicle. The guy reportedly yelled at the officer and then came into the BTPD police station to complain about [REDACTED] [REDACTED] arrested the man at the station and [REDACTED] did not understand why the man was not arrested at the scene rather than when he came to the station to file a complaint against police.

The next day one of the police vehicles had a flat tire. It appeared that the tire had been slashed. When [REDACTED] arrived at the police station he observed NUCERA talking to Sergeant NATE ROOHR in the parking lot. [REDACTED] heard NUCERA tell ROOHR words to the effect of, "If this monkey comes back, we're going to give him what he deserves." Chief NUCERA

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GA091

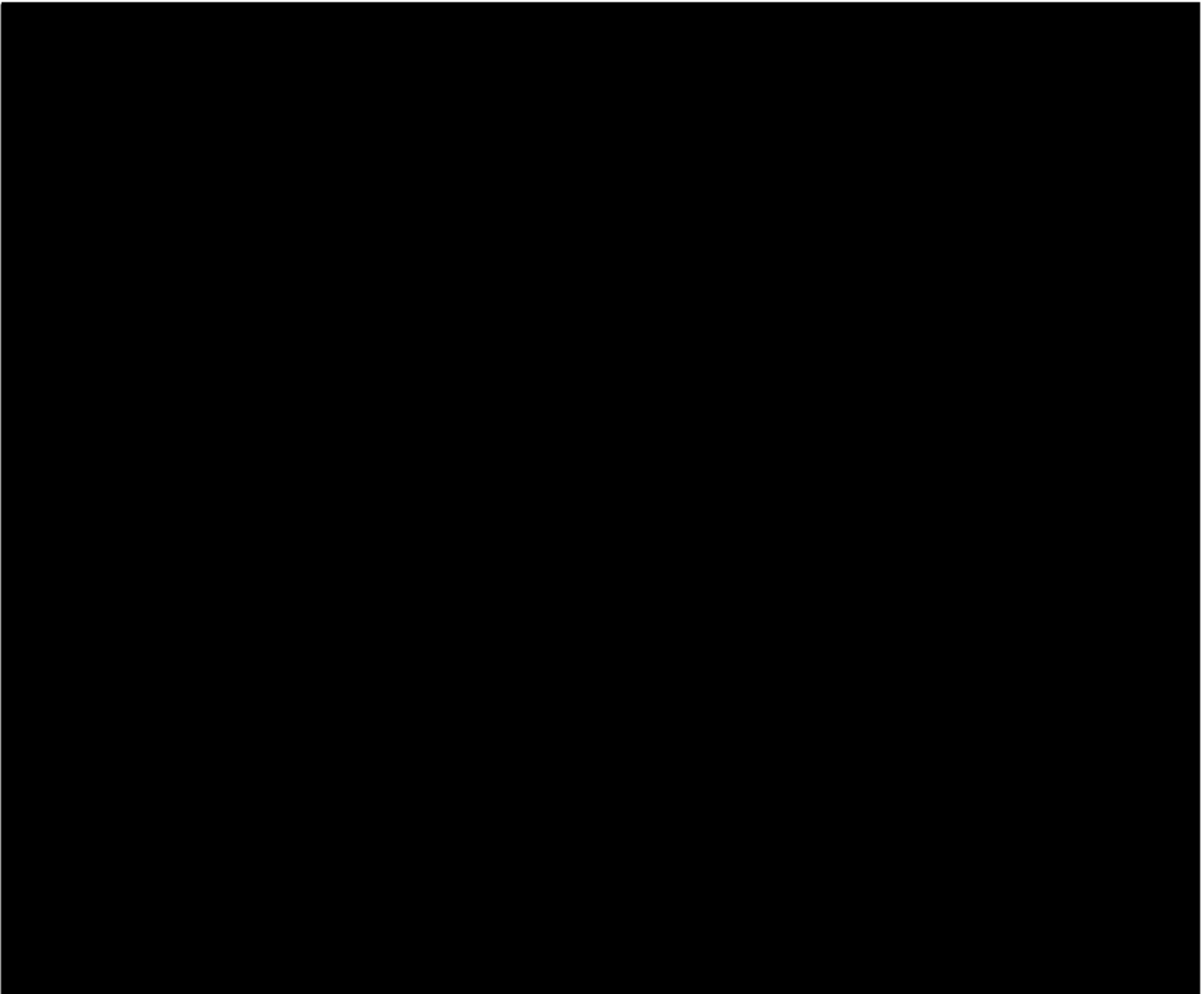
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282A-NK-2108117

(U//FOUO) [REDACTED] interview on  
Continuation of FD-302 of 02/24/2017: On 02/24/2017 Page 3 of 5  
~~believed the black male who was previously arrested was responsible for~~  
slashing the tire. [REDACTED] stopped when he heard NUCERA say that to ROOHR.  
He also heard NUCERA use "the N word" while talking to ROOHR.

NUCERA yelled at BT employees, both civilian and sworn. He used to yell and threaten police sergeants. NUCERA would say words to the effect of, "I don't know why I ever promoted you." NUCERA would sometimes threaten "to take away their stripes."

[REDACTED] and others believe Lieutenant [REDACTED] retired because NUCERA "forced him out" particularly by making him work nights and weekends. [REDACTED] and others believed NUCERA wanted [REDACTED] to retire to create a lieutenant vacancy for NUCERA III to fill.



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282A-NK-2108117

(U//FOUO) [REDACTED] interview on

Continuation of FD-302 of 02/24/2017.

02/24/2017 4 of 5

[REDACTED] is their police union president. In or around the Fall of 2016, [REDACTED] and others suggested buying recording devices and recording conversations with NUCERA. [REDACTED] and other officers went onto Amazon.com and purchased thumb drives which were also recording devices. [REDACTED] activated his device on a few occasions but did not intercept any pertinent conversations with NUCERA so he deleted his recordings. He will check but [REDACTED] believes that he deleted most of his recorded conversations. He may have one left. Detective [REDACTED] suggested that officers stop their recording devices after they intercept a pertinent conversation with NUCERA. [REDACTED] said this would help create a time stamp.

[REDACTED] and others were recording simultaneously on some days. [REDACTED] knows that because if an officer started discussing personal information in the police station another officer would point to their shirt pocket to remind the speaking officer that they were being recorded.

NUCERA was very concerned about issuing traffic tickets. [REDACTED] does

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GA093

FD-302a (Rev. 05-08-10)

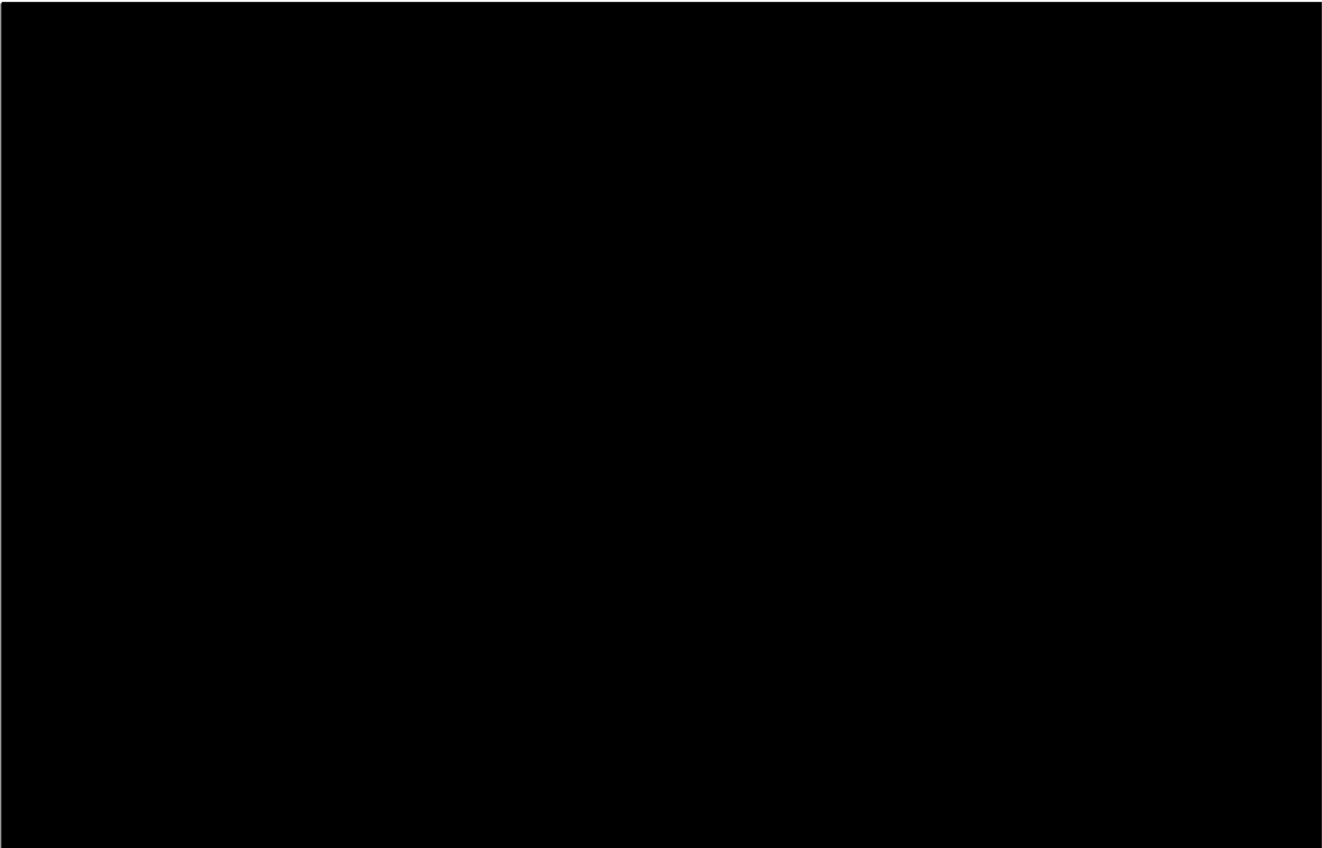
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282A-NK-2108117

(U//FOUO) [REDACTED] interview on

Continuation of FD-302 of 02/24/2017. On 02/24/2017 Page 5 of 5

~~not recall NUCERA saying why it was important to him. The officers in~~  
Traffic Bureau were expected to issue between 80 to 100 tickets each month. Officers in Patrol Bureau were expected to issue between 40 to 50 tickets each month. [REDACTED] and [REDACTED] told [REDACTED] how many tickets to issue. [REDACTED] understanding was that was a directive from NUCERA. There were times when NUCERA took away officer discretion. NUCERA demanded officers issue tickets rather than warnings.



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GA094



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## FEDERAL BUREAU OF INVESTIGATION

Date of entry 05/10/2017

[REDACTED]

[REDACTED], born [REDACTED], social security account number [REDACTED], of [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], cellular telephone number [REDACTED], was interviewed by Special Agent (SA) Vernon I. Addison and SA Arthur E. Durrant, III, Federal Bureau of Investigation (FBI), on Wednesday, 05/03/2017, inside the FBI, Newark Division, Trenton Resident Agency (TRA). After being advised of the identities of the interviewers and the nature of the interview, [REDACTED] provided the following information:

[REDACTED]

[REDACTED] cannot recall any incident where he witnessed excessive force by former BTPD Police Chief FRANK NUCERA, JR. (NUCERA).

[REDACTED]

[REDACTED] and other officers had problems with the way NUCERA managed the police department. The officers had submitted a grievance to him regarding overtime assignments. [REDACTED] and others did not feel that NUCERA issued the overtime fairly and that the selection process was not transparent. In

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Investigation on 05/03/2017 at Hamilton, New Jersey, United States (In Person)

File # 282A-NK-2108117

Date drafted 05/04/2017

by DURRANT III ARTHUR E, Vernon I. Addison

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282A-NK-2108117

(U) [REDACTED] interview on 05/03

05/03

Continuation of FD-302 of [REDACTED] /2017.

On

/2017

Page 2 of 5

Fact, [REDACTED] and others felt that NUCERA worked a majority of the overtime assignments himself. [REDACTED] believed "the guy worked" and that NUCERA "worked a lot of hours." NUCERA always seemed to be working as the Township Administrator, the Police Chief, or an off-duty overtime assignment. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The police officers also had a problem when there was a problem with their paychecks in 2016. There were 27 pay periods in 2016 and Bordentown Township (BT) failed to compensate for that. The result was that the officers received less pay in their paychecks in the latter part of 2016. [REDACTED] and NUCERA blamed the outside auditing firm for the error.

[REDACTED]

[REDACTED] thought that NUCERA was a "vindictive" person. He retaliated against people whom he thought were challenging him in any way. NUCERA reportedly did not want any police officer talking to any of the BT committee members. NUCERA reportedly "went after [REDACTED] after NUCERA thought [REDACTED] spoke to a committee member about police department issues.

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282A-NK-2108117

(U) [REDACTED] interview on 05/03 05/03  
Continuation of FD-302 of [REDACTED] /2017. , On /2017 , Page 3 of 5

[REDACTED]

[REDACTED] and other officers suspected that NUCERA forced [REDACTED] off the job because he did not like [REDACTED].

NUCERA would also use derogatory words such as "nigger" to describe a black person or "sand jockey" to describe a person of Middle Eastern descent. [REDACTED] recalled being in a car on-duty one day with NUCERA where NUCERA used the word "nigger" when talking about another driver on the roadway.

NUCERA did not seem to like [REDACTED], a former professional football player who opened a gym in BT. NUCERA used to ask the police officers why they used [REDACTED]'s gym. [REDACTED] thought NUCERA did not like [REDACTED] because he was black. [REDACTED] thought NUCERA was a "racist."

[REDACTED] BTPD [REDACTED] and other police officers were at a training exercise one day. Someone suggested wearing a Go-Pro helmet to film the training. [REDACTED] offered to wear the Go-Pro. NUCERA said words to the effect of, "You can't wear it. You'll get it all greasy." [REDACTED] was surprised by NUCERA's statement. [REDACTED] later told [REDACTED] that NUCERA's comment bothered him.

NUCERA also wanted police K9 dogs at high school basketball games where the teams were largely comprised of black players. NUCERA used to say,

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GA097

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282A-NK-2108117

(U) [REDACTED] interview on 05/03

05/03

Continuation of FD-302 of [REDACTED] /2017.

/2017

Page 4 of 5

~~"They respond to a K9 presence."~~ PAWLOV understood the word "they" to mean black people. [REDACTED] recalled that there was a prior incident involving two predominantly black teams, but [REDACTED] and others felt that NUCERA's methodology was "intimidating." [REDACTED] recalled that NUCERA did not employ the same tactic when the basketball teams were largely comprised of white players. [REDACTED] considered NUCERA to be "the oppressor."

NUCERA yells often. NUCERA has yelled to police officers, "Are you pussies? Are you faggots?" NUCERA once yelled to [REDACTED] "What are you [REDACTED] Are you a pussy or a panty waste?" NUCERA would sometimes yell at officers and then return and apologize. [REDACTED] and other officers used to say that NUCERA seemed "bi-polar."

[REDACTED] and others felt they were forced to tolerate NUCERA's behavior. In or around 2016, some police officers decided to buy recording devices and secretly tape conversations with NUCERA. [REDACTED] thinks the union was planning to bring a hostile work environment allegation against NUCERA. The FBI investigation then initiated.

NUCERA did not have an official "quota" and he did not use the word "quota" with regard to the issuance of traffic tickets. However, [REDACTED] and other police officers knew there was "an expectation" of tickets. [REDACTED] and others would be admonished by NUCERA through their sergeants if the number of tickets issued in a month declined. [REDACTED] knew that forty

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GA098

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282A-NK-2108117

(U) [REDACTED] interview on 05/03

05/03

Continuation of FD-302 of

[REDACTED] /2017.

On

/2017

Page 5 of 5

~~(40) tickets issued each month would keep him out of trouble with NUCERA.~~

Police officers had discretion but NUCERA would question their discretion. NUCERA would ask an officer why he or she did not issue a ticket. NUCERA cared more about tickets issued than drug or gun arrests. For example, the acting Chief just recently gave [REDACTED] a congratulatory letter in connection with a case [REDACTED] investigated. NUCERA never issued letters to police officers or made mention of any worthy arrest. NUCERA only seemed to ask about traffic tickets issued.

[REDACTED] and other officers were cautious of talking about NUCERA in front of GUIDO. GUIDO was scared of NUCERA and some officers believed he reported information back to NUCERA.

At the conclusion of this interview, [REDACTED] provided SA Durrant with a thumb drive containing information from [REDACTED] including "screen shots" of NUCERA. SA Durrant copied the contents of the thumb drive onto a DVD and placed the DVD in a 1A envelope under the captioned file number. SA Durrant thereafter returned the thumb drive to [REDACTED] via Federal Express number 7790-8689-9587.

UNCLASSIFIED//FOUO

GA099

FD-71 (Rev. 5-8-10)

UNCLASSIFIED//FOUO

# **FEDERAL BUREAU OF INVESTIGATION**

## **Complaint Form**

**Title:** (U//FOUO) NATHAN ANDREW ROOHR interview on  
11/17/2016.

**Date:** 11/23/2016

**Approved By:** DOYLE MICHAEL J  
GIBSON ROBERT J  
Michael A. Brodack

**Drafted By:** DURRANT III ARTHUR E

**Case ID #:** 282A-NK-NEW

(U//FOUO) FRANK NUCERA,  
POLICE CHIEF AND BUSINESS ADMINISTRATOR,  
BORDENTOWN, NEW JERSEY;  
ET AL;

[REDACTED] - VICTIM

OO: NK

SENSITIVE INVESTIGATIVE MATTER (SIM)

**Enclosure(s):** Enclosed are the following items:

1. (U//FOUO) Roohr notes

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**Complaint Synopsis:** (U//FOUO) Report complaint submitted by NATHAN ANDRE ROOHR.

**Received On:** 11/17/2016

**Receipt Method:** In Person

**Incident Type:** Criminal Activity

**Drafted By:** DURRANT III ARTHUR E

**Complaint Details:**

NATHAN ANDREW ROOHR, Police Sergeant, BORDENTOWN TOWNSHIP POLICE DEPARTMENT (BTPD), cellular telephone number [REDACTED], met with Special Agent (SA) Arthur E. Durrant, III, Federal Bureau of Investigation (FBI), on Thursday, 11/17/2016, in the area of

UNCLASSIFIED//FOUO

GA100

**UNCLASSIFIED//FOUO**

Title: (U//FOUO) NATHAN ANDREW ROOHR interview on 11/17/2016.  
Re: 282A-NK-NEW, 11/23/2016

Quakerbridge Road and Sloane Avenue in Hamilton, New jersey (NJ). After being advised of the identity of the interviewer and the nature of the interview, ROOHR provided the following information:

ROOHR was a police officer for the BURLINGTON COUNTY BRIDGE COMMISSION (BCBC) from 2000 to 2003. In 2003, ROOHR became a police officer at the BTPD and he is now a police sergeant. ROOHR requested to meet with SA Durrant to report potential civil rights and corruption violations committed by BTPD Police Chief FRANK NUCERA. ROOHR is concerned about retaliation by NUCERA.

On 09/01/2016, ROOHR was on duty at the BTPD. A call came out on the police radio for possible trespassers at the RAMDA INN located along Route 206. A police detective and a police lieutenant responded to the call. The located a unidentified eighteen (18) year old black male and a sixteen year old black female at the scene in the lobby area. The male and female allegedly became uncooperative with police and a call came over police radio for additional police officers to respond to the scene. ROOHR responded to his call.

At the scene, ROOHR located the police and the two individuals upstairs near the top of the steps. ROOHR observed the lieutenant on top of the black male on the floor. The male's clothes appeared to be soaking wet. He was laying on the floor with his hand under his body and refusing to comply with police commands. The police detective was on top of the female who was also on the floor. Both police officials were attempting to handcuff the individuals. Sergeant First Name Unknown (FNU) SIMMONS form BORDENTOWN CITY POLICE DEPARTMENT (BPD) also arrived on the scene.

Sgt SIMMONS assisted the Lieutenant handcuffing the male. The detective handcuffed the female and ROOHR helped to escort her to a police car. ROOHR returned inside to assist with the male. The lieutenant was complaining of a back injury. ROOHR patted down the now-handcuffed male. Police Officer FNY NAGLE, BTPD, helped escort the male.

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**UNCLASSIFIED//FOUO**

Title: (U//FOUO) NATHAN ANDREW ROOHR interview on 11/17/2016.  
Re: 282A-NK-NEW, 11/23/2016

The male was now handcuffed and walking towards a doorway near the top of the steps. The detective was on the prisoner's left side, Police Officer NAGLE was in front of the prisoner, Chief FRANK NUCERA was behind the prisoner, ROOHR was behind the prisoner to the left and Sgt SIMMONS was to the prisoner's left. The detective was walking the prisoner. The prisoner was yelling and threatening to sue the police. The prisoner stopped walking when he reached the doorway and he started shouting at police. The detective put his hand on the back of the prisoner and pushed him forward. ROOHR recalls it did not seem like a hard push. It appeared hard enough to make the prisoner start walking again.

At the same time, NUCERA came up to the prisoner from behind. NUCERA reached over with his left hand and "smashed his head into the door jam." ROOHR recalls hearing the sound of the prisoner's head hitting the door jam. The prisoner was escorted out of the building, into a police car, and into the police district. ROOHR heard that NUCERA then went to the hotel manager, TERRI COWEN, and yelled at her words to the effect of, "This is the type of clientele you rent to?" COWEN subsequently complained to Mayor JILL POPKO of NUCERA's comments to her.

ROOHR observed the male at the police district. BTPD Police Officer JEFF KOTORA processed the paperwork at the police district. The prisoner appeared to have redness and swelling in his face and head area. The prisoner then complained to ROOHR of a possible concussion and asked that ROOHR contact Emergency Medical Services (EMS). The prisoner complained of pain in his arm, shoulder, head and eye. ROOHR told the detective of the prisoner's complaint of pain and the detective said words to the effect of, "I'm sure he does, either from the pepper spray or elbows. ROOHR also told Chief NUCERA who responded by saying words to the effect of, "Good. He's lucky that's all he got."

ROOHR contacted EMS and an ambulance arrived. EMS personnel took the prisoner's vital signs and the prisoner eventually declined additional treatment.

**UNCLASSIFIED//FOUO**

**UNCLASSIFIED//FOUO**

Title: (U//FOUO) NATHAN ANDREW ROOHR interview on 11/17/2016.  
Re: 282A-NK-NEW, 11/23/2016

ROOHR met with NUCERA later in that tour of duty inside NUCERA's office. ROOHR decided to record that conversation using his cellular telephone. During that conversation NUCERA reportedly made racial slurs and used the word "niggers." NUCERA has used that word in the past. NUCERA has also told ROOHR he, "could shoot them."

ROOHR and others are afraid of NUCERA. NUCERA has fired or "run out" police officers he did not like. ROOHR believes a "culture of fear" exists in the police department because of NUCERA.

On 09/15/2016, at a NJ Department of Corrections training exercise, ROOHR told BTPD Captain BRIAN PESCE of Internal Affairs about the incident involving NUCERA. PESCE said he would investigate the matter and he later told ROOHR that an additional complaint surfaced. PESCE recently told ROOHR that he intends to make his findings known to the Mayor and Council members and to the Burlington County Prosecutor's Office.

ROOHR met with [REDACTED], [REDACTED] about this matter but he has not yet retained him or any other attorney.

[REDACTED]

**Final Pre-Assessment Finding:**

SA Durrant discussed the aforementioned with SA Vernon Addison. We respectfully recommend opening a 282 matter to address the civil rights complaint and assess any public corruption (194) issues. On 11/23/2016, SA Durrant discussed this matter with Assistant United States Attorney Fabiana Pierre-Louis, Attorney-in-Charge, United States Attorney's

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Title: (U//FOUO) NATHAN ANDREW ROOHR interview on 11/17/2016.

Re: 282A-NK-NEW, 11/23/2016

Office (USAO), Trenton Office. AUSA [REDACTED] concurred with opening a civil rights investigation into this matter.

**Recommended Action:** Open New Case

**Entities:**

Frank Nucera (Main, Person, U.S. Person? Yes)

Nathan Andrew Roohr (Complainant, Person, U.S. Person? Yes)

*Name/Biographical Information 1*

Name: NATHAN ANDREW ROOHR

Minor? No

Has Diplomatic Status? No

*Name/Biographical Information 2*

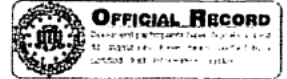
Name: Nathan Andrew Roohr

Minor? No

Has Diplomatic Status? No

◆◆

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## FEDERAL BUREAU OF INVESTIGATION

Date of entry 01/19/2017

On 01/11/2017, Sergeant (SGT.) NATHAN ROOHR, voluntarily met with Special Agent (SA) Vernon I. Addison and SA Arthur E. Durrant III at the Trenton Resident Agency of the FBI Newark Division for the purpose of voluntarily turning over (81) audio recordings he made from 04/30/2016 until 12/13/2016.

ROOHR advised that prior to contacting the FBI, he deleted additional audio recordings he made after reviewing the recordings and determining that nothing of importance was recorded.

SA Addison assisted ROOHR in downloading (81) audio recordings from his personal laptop computer and onto a temporary storage device.

On 01/17/2017, at approximately 3:08pm, SA Addison transferred (81) audio recording files to a permanent DVD. The DVD will be placed into evidence.

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Investigation on 01/11/2017 at Hamilton, New Jersey, United States (In Person)

File # 282A-NK-2108117

Date drafted 01/17/2017

by Vernon I. Addison, DURRANT III ARTHUR E

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## FEDERAL BUREAU OF INVESTIGATION

Date of entry 08/02/2017



**NATHAN ANDREW ROOHR**, Police Sergeant, BORDENTOWN TOWNSHIP POLICE DEPARTMENT (BTPD), cellular telephone number [REDACTED], was interviewed inside the United States Attorney's Office (USAO) in Trenton, New Jersey (NJ) on Friday, 07/14/2017, by Assistant United States Attorney (AUSA) Molly Lorber, USAO; AUSA Sarah Wolfe, USAO, Special Agent (SA) Arthur E. Durrant, III, Federal Bureau of Investigation (FBI); and SA Vernon I. Addison, FBI. After being advised of the identities of the interviewers, and the nature of the interview, ROOHR provided, in part, the following information:

In or around the fall of 2015, ROOHR had concerns about former Bordentown Township Police Department (BTPD) Police Chief FRANK NUCERA, Junior. ROOHR recalls that "his demeanor and behavior was escalating." ROOHR recalled that a black male was arrested. When the male was released he returned to the BTPD and was yelling at police. The male was subsequently arrested again for disorderly conduct. After the man was released again, police located a parked, unattended police vehicle with a flat tire. NUCERA suspected that the male had slashed the tire of the police car. NUCERA told ROOHR he believed in "bringing back the firing squad" to "shoot all these niggers. Niggers are like ISIS. They have no value."

ROOHR knows BTPD Police Captain BRIAN PESCE knows that ROOHR recorded his conversations with NUCERA. Police Officer JAMES CHIARIELLO also knows that ROOHR recorded conversations with NUCERA.

ROOHR thinks he saw CHIARIELLO at the gas pumps after his conversation with NUCERA. CHIARIELLO said Police Officer RYAN FORSTER overheard part of the language NUCERA used while talking to ROOHR. CHIARIELLO told ROOHR that he was recording conversations with NUCERA. ROOHR thinks that CHIARIELLO gave ROOHR the idea to record conversations with NUCERA. ROOHR

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Investigation on 07/14/2017 at Trenton, New Jersey, United States (In Person)

File # 282A-NK-2108117 Date drafted 07/17/2017

by DURRANT III ARTHUR E, Vernon I. Addison

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282A-NK-2108117

(U//FOUO) NATHAN ROOHR interview on 07/14  
Continuation of FD-302 of /2017. , On 07/14/2017 , Page 2 of 3

subsequently decided to record conversations with NUCERA. ROOHR feared that no one would believe his allegations against NUCERA unless he had recorded conversations with NUCERA.

NUCERA, on occasion, did treat ROOHR poorly in the past. However, ROOHR believes that "our relationship was good more recently."

*[ROOHR listened to parts of his recorded conversation with NUCERA on or about 09/01/2016].*

ROOHR believed that NUCERA said during the recorded conversation words to the effect of, "If need be, we'll call someone else in for a shift change and manpower because someone may have to go to the hospital with a prisoner."

When ROOHR arrived at the RAMADA INN (RAMADA) on 09/01/2016, he believes he drove around to the east side of the building and parked just north of the pool area. He and other officers went to the pool area because the initial police call said the suspects were in that area. ROOHR and other officers attempted to enter a door on the east side of the building but it was locked. ROOHR ran around a section of the building and entered an unlocked door.

Inside the RAMADA, ROOHR approached the staircase near the manager's office. ROOHR went up the steps and he believes NUCERA was behind him. When ROOHR reached the second floor, he observed Detective Sergeant SALVATORE GUIDO to his left and Lieutenant SHAWN MOUNT and Bordentown City Police Department Sergeant MATTHEW SIMMONS to his right. GUIDO was with a female. MOUNT and SIMMONS were attempting to handcuff a black male later identified as [REDACTED]. MOUNT was lying on his side and was the farthest from ROOHR. [REDACTED] was lying on his belly. [REDACTED] did not appear to be fighting or kicking but he had his hands under his body and appeared to be non-compliant. ROOHR describes [REDACTED] resistance as "passive." SIMMONS was on his knees next to [REDACTED] and was the closest to ROOHR.

ROOHR went over to [REDACTED] legs which were exposed. ROOHR knelt over [REDACTED] legs and gave verbal commands for [REDACTED] to take his hands from underneath his body. [REDACTED] complied after two or three commands. ROOHR is not certain who handcuffed [REDACTED] but it may have been him.

ROOHR thinks he conducted a pat-down of [REDACTED] while he was laying down. [REDACTED] thinks he also rolled [REDACTED] to his side to check for weapons. SIMMONS started attending to MOUNT because MOUNT was lying face down on the floor complaining of back pain.

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GA107

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282A-NK-2108117

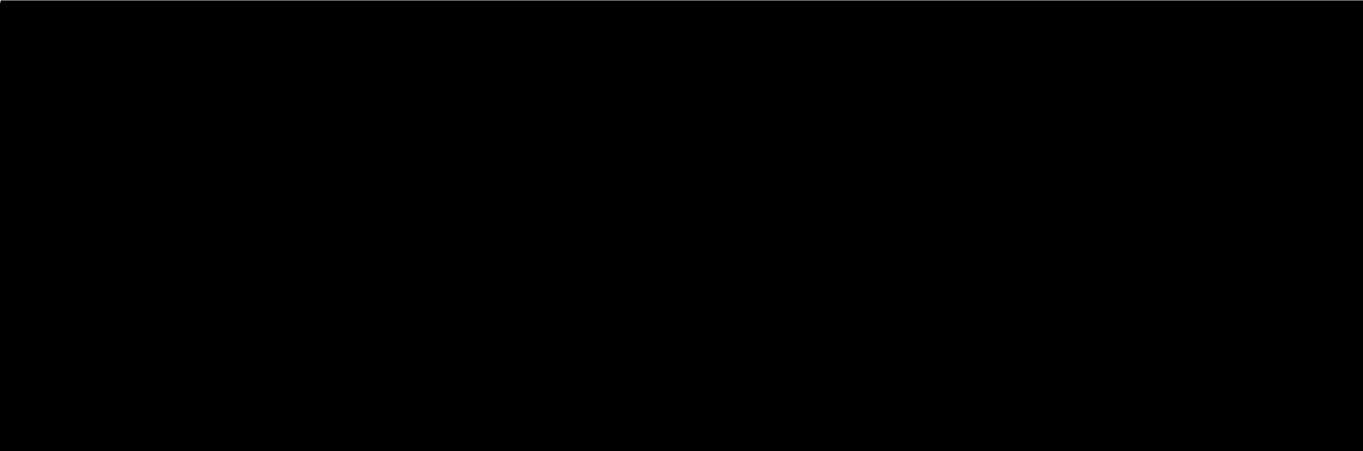
(U//FOUO) NATHAN ROOHR interview on 07/14

Continuation of FD-302 of /2017. , On 07/14/2017 , Page 3 of 3

ROOHR and BTPD Police Officer JEFFREY KOTORA escorted the female prisoner out to KOTORA's vehicle. They did not use ROOHR's vehicle because he was using a K9 vehicle with a police dog in the back. ROOHR recalls that they walked the female down the second floor, east wing of the building. They then came down the steps and exited a door. The woman was then placed in KOTORA's vehicle. KOTORA transported the female to the BTPD.

ROOHR then returned to the second floor. [REDACTED] was still on the floor handcuffed when ROOHR returned. ROOHR and possibly GUIDO helped [REDACTED] to a standing position.

While at the police station, ROOHR was talking to another prisoner in the cell block area. [REDACTED] told ROOHR that he felt pain and that he thought he had a concussion. [REDACTED] asked for medical attention and ROOHR requested an ambulance. ROOHR thinks Emergency Medical Services (EMS) from HOPE HOSE FIRE HOUSE responded as well as fire personnel. ROOHR recalled seeing GREG SWANSON at the BTPD at some point.



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GA108

These Nigerians are  
Just like ISIS They  
have no value.  
They should live  
all up and blown  
down. I'd like to  
be on a firing squad  
I could do it.  
I used to think about  
if I could shoot someone  
if not  
I could do it 100 times  
or it.

Behind some stairs

11/16/15

0025-0835



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## FEDERAL BUREAU OF INVESTIGATION

Date of entry 08/02/2017

NATHAN ANDREW ROOHR, Police Sergeant, BORDENTOWN TOWNSHIP POLICE DEPARTMENT (BTPD), cellular telephone number [REDACTED], was interviewed inside the United States Attorney's Office (USAO) in Trenton, New Jersey (NJ) on Thursday, 07/27/2017, by Assistant United States Attorney (AUSA) Molly Lorber, USAO; AUSA Sarah Wolfe, USAO, Special Agent (SA) Arthur E. Durrant, III, Federal Bureau of Investigation (FBI); and SA Vernon I. Addison, FBI. Having already known the identities of the interviewers ROOHR provided, in part, the following information:

*[ROOHR listened to a portion of a recorded conversation labeled as 20160430-123531].*

ROOHR recalled that he and FRANK NUCERA were working a security detail on or about 04/30/2016 at the Bordentown High School. ROOHR thinks there was a Brothers In Harmony event at the school that night. NUCERA mentioned about being in a Verizon store. ROOHR and NUCERA were inside the main office area of the school during this portion of the conversation. NUCERA and ROOHR were discussing something when NUCERA started talking about Verizon. NUCERA had purchased a cellular telephone for his mother. NUCERA was sitting at a desk and doing something with that cellular telephone, possibly programming it. ROOHR thinks that made NUCERA think of the Verizon store and start discussing it.

*[ROOHR listened to a portion of a recorded conversation labeled as 20160430-153833].*

ROOHR recalled this conversation with NUCERA. There was drug activity in the area of the South Gate Apartment Complex (South Gate) around the time of this recorded conversation. ROOHR believes a search warrant was executed by the Bordentown Township Police Department (BTPD) related to drugs just prior to this recorded conversation. The suggestion of making the BTPD K9 dogs visible at South Gate was likely meant as a deterrent to drug activity. ROOHR has a BTPD K9 dog trained for patrol and drug detection.

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Investigation on 07/27/2017 at Trenton, New Jersey, United States (In Person)

File # 282A-NK-2108117 Date drafted 07/28/2017

by DURRANT III ARTHUR E, Vernon I. Addison

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282A-NK-2108117

(U//FOUO) NATHAN ROOHR interview on 07/27

Continuation of FD-302 of /2017.

. On 07/27/2017 . Page 2 of 3

[ROOHR listened to a portion of a recorded conversation labeled as 20160917-135502].

ROOHR recalled this conversation. He believes the conversation occurred on or about 09/17/2016. ROOHR believes that himself, [REDACTED] and [REDACTED] were intercepted during this recorded conversation. ROOHR recalled that he was inside the office reserved for sergeants during this conversation. ROOHR was not certain why he activated the recording device. ROOHR suspects he may have anticipated speaking to NUCERA and activated the recording device. [REDACTED] entered the office area and told ROOHR that a guy, whom ROOHR understood to be [REDACTED], complained that he was injured by NUCERA. ROOHR suspects there was a complaint submitted to former Bordentown Township (BT) Mayor JILL POPCO. POPCO may have asked BT Committee member JIM CANN about the arrest involving [REDACTED]. CANN and [REDACTED] are close friends. ROOHR thinks [REDACTED] was telling ROOHR on 09/17/2016 that CANN asked him about the arrest.

When ROOHR reported NUCERA's conduct to BTPD Captain BRIAN PESCE on or about 09/15/2016, ROOHR asked PESCE if video surveillance footage from the RAMADA INN had been obtained pursuant to [REDACTED]'s arrest. PESCE may have asked BTPD Detective Sergeant SALVATORE GUIDO to determine if video surveillance footage existed.

[REDACTED]

In or around September of 2016 or the beginning of October of 2016, ROOHR called Special Agent Jacob Archer of the FBI, Philadelphia Division. SA Archer was a former Bordentown City police officer and he is a good friend of ROOHR's. ROOHR asked to speak with SA Archer and they met at SA Archer's house. ROOHR told SA Archer about the incident involving NUCERA on or about 09/01/2016. SA Archer told ROOHR that he would refer ROOHR to SA Durrant. SA Archer later spoke with ROOHR and told him that SA Durrant was presently involved in another investigation and would talk to ROOHR at a later date.

ROOHR mentioned that he wanted to speak with an attorney primarily because he was concerned about retaliation. SA Archer provided ROOHR with some names of attorneys in New Jersey. ROOHR met with [REDACTED],

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GA111

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282A-NK-2108117

(U//FOUO) NATHAN ROOHR interview on 07/27

Continuation of FD-302 of /2017. , On 07/27/2017 , Page 3 of 3

Esquire on or about 10/11/2016. ROOHR thinks he met with KLINGEMAN once.  
ROOHR is not presently represented by any attorney.

SA Durrant and ROOHR subsequently spoke and ROOHR reported his concerns.

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GA112



## FEDERAL BUREAU OF INVESTIGATION

Date of entry 11/01/2016

[REDACTED] date of birth, [REDACTED] home address, [REDACTED], cell phone number, [REDACTED] was advised of the identity of the interviewing agents and the purpose of the interview. Also present for the interview was Assistant United States Attorney Eric Moran. [REDACTED] provided the following information:

[REDACTED] has known [REDACTED], a.k.a. [REDACTED] for a couple of years from "North 25." [REDACTED] explained that his grandmother used to live out there and that is where [REDACTED] lived. [REDACTED] indicated that he lived on [REDACTED] at the time.

[REDACTED] advised that he was with [REDACTED] and another individual when they heard gun shots prior to [REDACTED] being shot by the police. [REDACTED] commented, "that's why we were going home." [REDACTED] did not know who fired the shots but they ran after hearing the shots. [REDACTED] did not know why the shots were being fired. [REDACTED] advised that he was the same distance between [REDACTED] in front of him, and the other individual behind him. [REDACTED] observed 2 trucks turn the corner and men jumped out and shouted, "freeze, don't fucking move." [REDACTED] stated that he got grabbed.

[REDACTED] explained in more detail that the men jumped out of their vehicle and stated, "freeze, don't fuckin move, don't fuckin move." [REDACTED] stated that he started to run but he got caught by the officer who was the passenger. The officer put him on the ground face down on his chest. [REDACTED] stated that he could still see what was occurring near him. The officer then sat him on the curb.

[REDACTED] stated that [REDACTED] did not have a gun that night and that [REDACTED] did not show him a gun before that day. [REDACTED] stated that the officer with the tan pants got on his knee and shot [REDACTED] [REDACTED] heard the other officer say, "he got a gun."

[REDACTED] complained that the police officers that interviewed him kept playing a word game with him, trying to put words in his mouth. [REDACTED] explained that he would answer their questions but they would keep asking the same questions until you said what they wanted you to say. [REDACTED] proclaimed that he did not see [REDACTED] throw a gun. [REDACTED] stated that he

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Investigation on 10/05/2016 at Trenton, New Jersey, United States (In Person)File # 282A-NK-6580046Date drafted 10/27/2016by Vernon I. Addison, CARTER CHARLES E JR

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FD-302a (Rev. 05-08-10)

282A-NK-6580046

Continuation of FD-302 of (U) [REDACTED]

, On 10/05/2016 , Page 2 of 2

did not see [REDACTED] appear to throw anything. [REDACTED] was running and trying to pull his pants up. [REDACTED] stated that when the officer said that [REDACTED] had a gun, [REDACTED] put his hands up. [REDACTED] heard one officer say, "he got a gun" and then the other officer got on his knee and fired.

[REDACTED] stated that he was caught at the edge of the grass near the corner. After [REDACTED] was shot, [REDACTED] asked the officer(s) why did they shoot him. [REDACTED] was told by an officer to "shut the fuck up" and then the officer put him into a police vehicle. [REDACTED] was also asking why the police shot him. [REDACTED] waited at the scene until after the ambulance arrived then he was taken to the police station. [REDACTED] was read his rights and was told that he was under arrest.

[REDACTED] was held for 12 hours before he was interviewed. [REDACTED] indicated that the interviewers talked with him before they started recording the interview. During the interview, STROYE was told that [REDACTED] had a gun. [REDACTED] told the interviewers that [REDACTED] did not have a [REDACTED] [REDACTED] was threatened with the consequences of lying. The interviewers suggested to [REDACTED] that [REDACTED] threw a gun. [REDACTED] advised that he did not agree with the interviewers.

[REDACTED] further explained the moments before [REDACTED] was shot. [REDACTED] stated that the situation happened too fast. [REDACTED] was running and pulling up his shorts. [REDACTED] advised that he heard an officer say, "he got a gun" and then saw [REDACTED] put his hands up and looked back at the officer, while still running. [REDACTED] stated the officer ran a couple steps, stopped, knelt, and fired.

[REDACTED] advised that he was threatened with contempt of court if he did not testify against [REDACTED]. Someone from the investigation or prosecution tried to get [REDACTED] father to pressure [REDACTED] to testify but [REDACTED] father refused.

[REDACTED] was shown 2 photographs, labeled 2 and 5. [REDACTED] identified on photo 5 where he, [REDACTED] and the third individual were at when the police arrived. [REDACTED] signed and dated the photo.

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**FEDERAL BUREAU OF INVESTIGATION****Collected Item Log**

**Event Title:** (U//FOUO) ROOHR voluntary recordings.

**Date:** 12/14/2016

**CC:** Vernon I. Addison  
WILSON JOHN R JR

**Approved By:** SSA DOYLE MICHAEL J

**Drafted By:** DURRANT III ARTHUR E

**Case ID #:** 282A-NK-2108117 (U) CHIEF FRANK NUCERA JR. - SUBJECT  
BORDENTOWN TOWNSHIP, NJ POLICE  
[REDACTED] - VICTIM  
COLOR OF LAW - FORCE AND OR VIOLENCE

**Full Investigation Initiated:** 12/05/2016

**Collected From:** (U//FOUO) Police Sergeant Nathan Andrew  
Roohr  
Bordentown Township Police Department.

**Receipt Given?:** No

**Holding Office:** NEWARK

**Details:**

**NATHAN ROOHR**, Police Sergeant, Bordentown Township Police Department (BTPD), met with Special Agent (SA) Arthur E. Durrant, III, Federal Bureau of Investigation (FBI), on Wednesday, 11/23/2016. ROOHR provided SA Durrant with a thumb drive containing about five (5) previously recorded conversations. ROOHR explained that he used his cellular telephone to record audio conversations between himself and BTPD police officers including Police Chief FRANK NUCERA. ROOHR believes two of the conversations were recorded on or about 09/01/2016. ROOHR created these recordings prior to having any meetings with the FBI.

SA Durrant subsequently downloaded all of the recordings on the

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**UNCLASSIFIED//FOUO**

Title: (U//FOUO) ROOHR voluntary recordings.

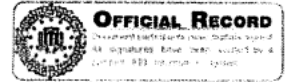
Re: 282A-NK-2108117, 12/14/2016

thumb drive. SA Durrant returned the thumb drive to ROOHR. SA Durrant submitted the aforementioned CD as 1B-1 under the captioned file number as a voluntary recording via FedEx number 7779-3485-7151.

<b>Item Type</b>	<b>Description</b>
1B Digital	(U//FOUO) One CD containing five voluntary recordings between Nathan Roohr, Bordentown Township police officers and Chief Frank Nucera. Collected On: 11/23/2016 01:00 PM EST Seizing Individual: DURRANT III ARTHUR E Collected By: DURRANT III ARTHUR E Other Locator: NK Other Locator Agency: CJRA Location Area: NK Bulky Specific Location: NK Bulky Device Type: Compact Disc/Digital Video Disc(CDs/DVDs) Make: Sony Number of Devices Collected: 1

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## FEDERAL BUREAU OF INVESTIGATION

Date of entry 12/14/2016

On 12/12/2016, Special Agent (SA) Vernon I. Addison and SA Arthur E. Durrant, III, Federal Bureau of Investigation (FBI), met with NATHAN ANDREW ROOHR in Bordentown, New Jersey (NJ). At approximately 2:45 PM, SA Addison activated a recording device and provided it to ROOHR.

On 12/12/2016, SA Addison met with Roohr. At approximately 7:21 PM, SA Addison took custody of the recording device and deactivated it. The recording was subsequently submitted as evidence via Federal Express number 777-3804-3468.

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Investigation on 12/12/2016 at Bordentown, New Jersey, United States (, Other (Consensual Recording))

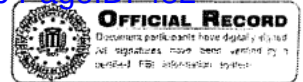
File # 282A-NK-2108117 Date drafted 12/13/2016

by DURRANT III ARTHUR E, Vernon I. Addison

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GA117

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**FEDERAL BUREAU OF INVESTIGATION****Collected Item Log**

**Event Title:** (U//FOUO) ROOHR voluntary recording (1B-2). **Date:** 12/15/2016

**CC:** Vernon I. Addison  
WILSON JOHN R JR

**Approved By:** SSA DOYLE MICHAEL J

**Drafted By:** DURRANT III ARTHUR E

**Case ID #:** 282A-NK-2108117 (U) CHIEF FRANK NUCERA JR. - SUBJECT  
BORDENTOWN TOWNSHIP, NJ POLICE  
[REDACTED] - VICTIM  
COLOR OF LAW - FORCE AND OR VIOLENCE

**Full Investigation Initiated:** 12/05/2016

**Collected From:** (U//FOUO) Police Sergeant Nathan Andrew Roohr  
Bordentown Township Police Department

**Receipt Given?:** No

**Holding Office:** NEWARK

**Details:**

On Tuesday, 12/13/2016, Special Agent (SA) Vernon I. Addison and SA Arthur E. Durrant, III, Federal Bureau of Investigation (FBI), met with NATHAN A. ROOHR, Police Sergeant, Bordentown Township Police Department (BTPD) in Bordentown, New Jersey (NJ). At approximately 3:00 PM, SA Addison activated three (3) recording devices and provided them to ROOHR.

On 12/13/2016, SA Addison met again with ROOHR in Bordentown, NJ. At approximately, 7:28 PM, SA Addison took custody of the three recording devices and deactivated the devices. The recorded conversations were subsequently submitted as evidence (1D-3, 1D-4, and 1D-5). The evidence was submitted via Federal Express number 7779-5009-5098.

UNCLASSIFIED//FOUO

**UNCLASSIFIED//FOUO**

Title: (U//FOUO) ROOHR voluntary recording (1B-2).  
Re: 282A-NK-2108117, 12/15/2016

ROOHR also provided SA Addison with a thumb drive containing recorded conversations between ROOHR and Police Chief FRANK NUCERA on Monday, 12/12/2016. ROOHR recorded these conversations using his cellular telephone. SA Addison converted the conversations to a CD and the CD was subsequently submitted as evidence (1B-2). The evidence was submitted via Federal Express number 7779-5012-4683.

<b>Item Type</b>	<b>Description</b>
1B Digital	(U//FOUO) CD containing voluntary recording between Nathan A. Roohr and Police Chief Frank Nucera on 12/12/2016. Collected On: 12/13/2016 07:53 PM EST Seizing Individual: Vernon I. Addison Collected By: Vernon I. Addison Location Area: NK Specific Location: Bulky Device Type: Compact Disc/Digital Video Disc(CDs/DVDs) Number of Devices Collected: 1

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**UNCLASSIFIED//FOUO**

Evidence Details

Case: 282A-NK-2108117

Item: 1B2

Description: (U//FOUO) CD containing voluntary recording between Nathan A. Roohr and Police Chief Frank Nucera on 12/12/2016.

Collected On: 12/13/2016 07:53 PM EDT

Receipt Item #: None

Special Handling: None

CATS ID #: None

Hazardous Materials: None

FBI Seizure #: None

CATS Abandonment #: None

Abandonment #: None

Digital Information

Type: Compact Disc/Digital Video Disc(CDs/DVDs)

Batteries Charged: No

Number Collected: 1

Collected by CART: No

Discovery Location

Area: NK

Others: None

Specific: Bulky

Others Agency: None

Seizing Individual: Vernon I. Addison

Collected By: Vernon I. Addison

Seizing Individual: None

Other:

Anticipated Disposition

None on None

Storage Information

Holding Office: NEWARK

Finalized By: James Coviello

Last Inventory: 06/09/2017 12:00 AM EST

Location: E03370623 - ECR  
E02123281 - ECR, CART, CART ROOM  
E02123283 - ECR, CART, S2

Barcode #: E6034049

Chain of Custody

Shipping / Transfer Log

History

Acquisition Event Details

Acquisition Event: (U//FOUO) ROOHR voluntary recording (1B-2).

Collected From: (U//FOUO) Police Sergeant Nathan Andrew Roohr  
Bordentown Township Police Department

Receipt Given: No

Holding Office: NEWARK

Evidence Log: 282A-NK-2108117  
Serial 9

PACKAGE 11

GA120

10/19/2017 10:11 AM

FD-1004  
Rev. 7-7-2016FEDERAL BUREAU OF INVESTIGATION  
EVIDENCE CHAIN OF CUSTODY

Evidence Type: <input type="checkbox"/> General <input type="checkbox"/> Drugs <input type="checkbox"/> Firearms/Weapon <input checked="" type="checkbox"/> Digital <input type="checkbox"/> Valuables <input type="checkbox"/> Firearms/Other		Item # _____	
Special Handling Instructions		Initial Receipt	Date and Time
<input type="checkbox"/> HAZMAT <input type="checkbox"/> Latents <input type="checkbox"/> FGJ <input type="checkbox"/> Req. Charging <input type="checkbox"/> Freeze <input type="checkbox"/> Refrigerate <input type="checkbox"/> Biohazard <input type="checkbox"/> Other _____		Signature of Seizing Individual: <i>[Signature]</i> Printed Name/Agency: <i>VERNON I. ADDISON / FBI</i> Reason: Initial Collection Collected By: <i>SA VERNON I. ADDISON</i> Agency: <i>FBI</i>	<i>12/13/16</i> <i>7:53 AM</i>
Relinquished Custody	Date and Time	Accepted Custody	Date and Time
Signature: <i>[Signature]</i>	<i>12/14/16</i>	Signature: <i>[Signature]</i>	<i>12/14/2016</i>
Printed Name/Agency: <i>VERNON I. ADDISON / FBI</i>	<i>1:05 PM</i>	Printed Name/Agency: <i>ARTHUR E. DURRANT III</i>	<i>1:05 PM</i>
Reason: <i>TOT SA ARTHUR E. DURRANT III</i>		Reason: <i>ACCEPT CUSTODY</i>	
Relinquished Custody	Date and Time	Accepted Custody	Date and Time
Signature: <i>[Signature]</i>	<i>12/14/2016</i>	Signature: <i>[Signature]</i>	<i>12/16/16</i>
Printed Name/Agency: <i>ARTHUR E. DURRANT III</i>	<i>4:30 PM</i>	Printed Name/Agency: <i>JAMES COWELL / FBI</i>	<i>12:25 PM</i>
Reason: <i>TOT BULKY via FedEx #</i>		Reason: <i>Storage</i>	
Relinquished Custody <i>7779-5012-4683</i>	Date and Time	Accepted Custody <i>777950124683</i>	Date and Time
Signature: <i>[Signature]</i>	<i>10/19/17</i>	Signature: <i>[Signature]</i>	<i>10/20/2017</i>
Printed Name/Agency: <i>ARTHUR E. DURRANT III</i>	<i>10:15 AM</i>	Printed Name/Agency: <i>ARTHUR E. DURRANT III</i>	<i>9:45 AM</i>
Reason: <i>Sent to SA Durrant via FedEx</i>		Reason: <i>Received from BULKY</i>	
Relinquished Custody <i>6746 85908293</i>	Date and Time	Accepted Custody	Date and Time
Signature: <i>[Signature]</i>	<i>10/20/2017</i>	Signature:	
Printed Name/Agency: <i>ARTHUR E. DURRANT III</i>	<i>4:30 PM</i>	Printed Name/Agency:	
Reason: <i>TOT BULKY via FedEx #</i>		Reason:	
Relinquished Custody <i>7705-4877-1646</i>	Date and Time	Accepted Custody	Date and Time
Signature:		Signature:	
Printed Name/Agency:		Printed Name/Agency:	
Reason:		Reason:	
Relinquished Custody	Date and Time	Accepted Custody	Date and Time
Signature:		Signature:	
Printed Name/Agency:		Printed Name/Agency:	
Reason:		Reason:	

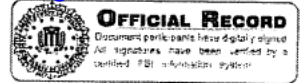
Firearm Certification by (FI/SWAT) / Explosive Material Certification by (SABT):		ATF Trace Form Completed: <input type="checkbox"/>
Printed Name:		NCIC: <input type="checkbox"/>
Signature:		
Date:		

Case ID: *282A-NK-2108117* IB: *2* Barcode: *E6034049*Ref:  
Dep:Date: 19Oct17  
Wgt: 0.40 LBS  
DV:SHIPPING:  
SPECIAL:  
HANDLING:  
TOTAL:4.33  
0.00  
0.00  
4.33  
ence to the FD-1087.

GA121

SVCS: STANDARD OVERNIGHT DSR

UNCLASSIFIED

**FEDERAL BUREAU OF INVESTIGATION****Collected Item Log****Event Title:** (U) Consensual recording**Date:** 12/29/2016**CC:** BRIDGETT BLAKE  
LODI ROGER R**Approved By:** SSA DOYLE MICHAEL J**Drafted By:** Vernon I. Addison**Case ID #:** 282A-NK-2108117 (U) CHIEF FRANK NUCERA JR. - SUBJECT  
BORDENTOWN TOWNSHIP, NJ POLICE  
[REDACTED] - VICTIM  
COLOR OF LAW - FORCE AND OR VIOLENCE**Full Investigation Initiated:** 12/05/2016**Collected From:** Sergeant Nathan Roohr  
Bordentown Township Police Department**Receipt Given?:** No**Holding Office:** NEWARK**Details:**

On 12/22/2016, Special Agent(SA) Vernon I. Addison and SA Arthur E.Durrant III, Federal Bureau of Investigation, met with Sergeant(SGT) NATHAN ROOHR, Bordentown Township Police Department, in Florence, New Jersey. At approximately 6:45am, SA Addison activated (2) recording devices which were given to SGT. ROOHR.

On 12/22/2016, SA Addison and SA Durrant III again met with SGT. ROOHR in Florence, New Jersey and retrieved (2) recording devices which SA Addison deactivated at approximately 8:19pm and collected as evidence. The recordings were submitted as evidence via FedEx with tracking number 778045286974 on 12/27/2016.

on 12/29/2016, the recordings were returned to SA Addison for a

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**UNCLASSIFIED**

Title: (U) Consensual recording

Re: 282A-NK-2108117, 12/29/2016

correction and then they were resubmitted as evidence via FedEx with tracking number 778067351289.

<b>Item Type</b>	<b>Description</b>
1D	(U) CD containing a consensual recording between Sgt. Nathan Roohr and Chief Frank Nucera Jr., Det. Sgt. Salvatore Guido, Officer Anthony Nagle, Lt. Shawn Mount, and Capt. Brian Pesce on 12/22/2016. Collected On: 12/22/2016 08:19 PM EST Collected By: Vernon I. Addison ELSUR Evidence Type: Consensual Monitoring Media Type: Computer Disk Original Type: Original Surveillance Start: 12/22/2016 Surveillance End: 12/22/2016

◆◆

**UNCLASSIFIED**

## Evidence Details

Case: 282A-NK-2108117Item: 1D7

Description: (U) NKCM 77437. CD containing a consensual recording between Sgt. Nathan Roohr and Chief Frank Nucera Jr., Det. Sgt. Salvatore Guido, Officer Anthony Nagle, Lt. Shawn Mount, and Capt. Brian Pesce on 12/22/2016.

Collected On: 12/22/2016 08:19 PM EDT

Receipt Item #: None

Special Handling: None

CATS ID #: None

Hazardous Materials: None

FBI Seizure #: None

## ELSUR Information

Collected By: Vernon I. Addison

Others: None

Others Agency: None

Evidence Type: Consensual Monitoring

Media Type: Computer Disk

Original Type: Original

Surveillance Start: Missing

Surveillance End: Missing

Media Removed: Missing

## Anticipated Disposition

Destroy on 12/22/2026

## Storage Information

Holding Office: NEWARK

Finalized By: Diane Rodgers-Kaminski

Last Inventory: 01/17/2017 12:00 AM EDT

Location: E02231162 - ELSUR2, CONSENSUAL MONITORING;

Barcode #: E4950870

## Chain of Custody

## Sealing Events

## Shipping / Transfer Log

## History

## Acquisition Event Details

Acquisition Event: (U) Consensual recording

Collected From: (U) Sergeant Nathan Roohr  
Bordentown Township Police Department

Receipt Given: No

Holding Office: NEWARK

Evidence Log: 282A-NK-2108117  
Serial 27

# Bordentown PD

DATE: APRIL 30, 2016

TYPE OF RECORDING: AUDIO

SUBJECTS: COOPERATING WITNESS (CW)  
BTPD CHIEF FRANK NUCERA (FN)

ABBREVIATIONS: UNINTELLIGIBLE (UI)

1 FN: But uh, yeah, we're going to have to go down there a lot. Start stirring up some shit.

2 CW: (UI).

3 FN: Even with that, that's enough make sure, you know. I'm gonna. But, we're gonna have a  
4 meeting next week. And I want guys down there. I want you to stop, in the middle let the  
5 dog piss in the middle of the trees. So that whoever's there says, oh, they got, dogs, they  
6 got this. This may not be a good idea. I don't want that shit (UI, crosstalk)...

7 CW: (UI)

8 FN: Yeah. Then do the same thing. Summertime, you know what, walk around. Get out with  
9 your dog and walk around.

10 CW: (UI)... Southgate, obviously (UI).

11 FN: Yeah, Southgate. Ride out. Get out and walk with your dog. If you have a full shift, get  
12 out and walk your dog through the apartment complex. Let these fucking mullies see  
13 him. Let 'em see him. I don't care. That's like Mr. Moore came to me, when we had to  
14 do the basketball games.

15 You know, a lot of people are upset we have all these dogs here.

16 I said (UI).

17 He said, well you know, they feel like they're being intimidated.

18 I said, well here's the deal, a dog is a dog is a dog. A dog ain't gonna do nothing to you  
19 unless you don't do what you're supposed to. So who's intimidated with a dog? I said,  
20 that's like saying they're intimidated with the cops. Okay? The dog is a tool. The  
21 officers work, the dog comes.

22 Well, you know, they call you John Brown.

23 I said, they can call me whatever they want, Mr. Moore. The dog didn't do anything.

1 Well they don't like it. They figure, well, you know, you have these dogs there and feel  
2 intimidated.

3 Well, behave. Behave! (UI)... we have to... then you say you're not gonna do that  
4 anymore. Too bad. Go in there and (UI)...

5 UM1: The cars (UI)...

6 FN: Go in and tell the guy who's complaining to you that behave and the dog won't do  
7 anything. And he's complaining.

8 Well you got those dogs out there barking and shit, that's some John Brown shit.

9 Well Kevin took his out to fix or something. That don't make a difference either. He  
10 didn't do anything with it. This John Brown shit (UI)... this John Brown... I said, Mr.  
11 Moore, you know, really? You go back in there and go tell whoever you want that, if  
12 they behave, there will be no problem with the dog.

13 CW: When was that?

14 FN: When we had the basketball tournament here.

15 CW: (UI).

16 FN: Yeah. (UI)... And then other people came up to me and said, you guys did a great job.  
17 You guys did a great job. I said, thank you. (UI)

18 CW: (UI)

19 FN: No, not the kid Mr. Moore, his father.

20 CW: Yeah. (UI)

21 FN: I saw him up there.

22 CW: I think he just stayed up there. I don't think he got, (UI) I mean I wasn't there, but  
23 uh...(UI).

1 FN: Yeah, they tell me that. I'm like, dogs. I just say, you know what, we're buying another  
2 one.

3 They call you John Brown with those dogs out there barking and scaring the shit out of  
4 people.

5 Well, let me tell you, the dog didn't do a thing. The dog stayed in the truck just like he's  
6 supposed to. But if the public don't listen, the dog might come out. (UI) Bullshit, you're  
7 going to tell us what to do.

8 (Crowd noise)

9 FN: How are you, sir?

10 **END AUDIO**

# Bordentown PD

DATE: SEPTEMBER 1, 2016

TYPE OF RECORDING: AUDIO

SUBJECTS: COOPERATING WITNESS (CW)

████████████████████  
DET. SGT. SALVATORE GUIDO (SG)

UNIDENTIFIED MALE (UM)

UNIDENTIFIED FEMALE (UF)

ABBREVIATIONS: UNINTELLIGIBLE (UI)

1 CW: (UI) . . . o-r-e-s, you know what I mean? This is M-o-r-r-i-s.  
2 UM1: Yeah.  
3 CW: It's like, like Morris County.  
4 UM1: Yeah.  
5 CW: It's kinda far.  
6 [REDACTED] (UI)  
7 CW: What's that?  
8 [REDACTED] I think I have a concussion. So can you call somebody, please?  
9 CW: You're in pain?  
10 [REDACTED] Yeah. A lot.  
11 CW: Where are you in pain in?  
12 [REDACTED] My head, my back, and my shoulder.  
13 CW: Okay.  
14 [REDACTED] And my eye.  
15 CW: Okay.  
16 CW: We need a special squad 320. We got someone in custody complaining of head pain.  
17 UF (over two-way radio): Is it the adult male or the juvenile?  
18 CW: He's saying he has a pain in his head and his eye and he thinks he has a concussion.  
19 SG: He probably does.  
20 CW: I concur. That's why I called for an ambulance.  
21 SG: I'm sure he has a (UI)... Swimming, or from, uh... Could be the pepper spray or an  
22 elbow.  
23 CW: I called for an ambulance. They're on their way.

1 UM1: What was the court date for the last one? Nine twenty (UI)...

2 CW: You're going to get a copy of that. It'll be in court (UI). I don't know what it is. I just...

3 UM1: Oh man! I hope it ain't the 25th. I got a court date soon in Connecticut.

4 CW: We'll get it done with the court date, alright? If you can't make it just make sure you

5 contact them and make arrangements and get it rescheduled maybe even sooner than that.

6 Who knows? Alright?

7 UM1: Alright.

8 ■ You wouldn't happen to know what the hold up is, right? With me?

9 CW: I'm sorry?

10 ■ What the hold up is. My head and (UI)...

11 CW: Somebody's handling the case, not me.

12 ■ Alright.

13 CW: I'm working with this gentleman right here.

14 ■ Alright.

15 CW: Alright, somebody else is working on your stuff.

16 ■ Alright.

17 CW: Right, I just called an ambulance for you.

18 ■ Alright, thank you.

19 CW: Alright? (UI) going to take a look at it.

20 ■ Alright.

21 CW: Alright? Um. There's two people working on your case (UI).

22 ■ Alright.

23 CW: Alright? So (UI)...

- 1 UM1: Hey, you were in the military?
- 2 CW: I wasn't.
- 3 UM1: No?
- 4 CW: I wasn't. I wasn't. I've been doing this since I was 21.
- 5 UM1: Yeah. 37 now?
- 6 CW: 37. Yup. Been a minute. Been a minute.
- 7 UF (over two-way radio): Just to clarify, the squad's for the male from the Ramada, not from
- 8 the soliciting, correct?
- 9 UM1: Mmhm.
- 10 CW: Affirm. Adult male, from the Ramada.
- 11 UF (over two-way radio): Thanks.
- 12 **END AUDIO**

# Bordentown PD

DATE: SEPTEMBER 1, 2016

TYPE OF RECORDING: AUDIO

SUBJECTS: COOPERATING WITNESS (CW)  
BTPD CHIEF FRANK NUCERA (FN)  
ANNOUNCER (AN)

ABBREVIATIONS: UNINTELLIGIBLE (UI)

FN: I'm fucking tired of them man. I'll tell you what, it's gonna get to the point where I could shoot one of these motherfuckers. And that nigger bitch lady, she almost got it.

"Get back." (UI) aunt. Well, I said "get back."

"Don't tell me what to do."

I said, "I'm telling you, you're getting close to getting thrown on the fucking floor too.

Get back."

"That's my niece." I said, "I don't care who the fuck it is. Get fucking back! Don't yell at me, one more time."

Fucking nipple hanging bitch. I'm so tired of them, man. I'm telling you, you know what, I'm gonna tell you the perfect thing, Donald Trump is the last hope for white people, 'cause Hillary will give it to all the minorities to get a vote. That's the truth! I'm telling you. I think about that more and more. He is, he's the last hope for the fucking white people cause she's too (UI). All the seven mothers that were at the Democratic National Convention saying "the police killed my kids," the fucking guy's, the father for the guy at the Orlando night club was sitting in the audience. She'll sell the vote to whoever she can. Guatemalans, Russians, Nicaraguans, spics, blacks, you name it. Your, he's the last hope for the white people. I'm telling you. I'm telling you. I've been thinking about that more and more. I mean he's a nut.

CW: You're gonna vote for Gary Johnson?

FN: I'm not voting for nobody. I don't even wanna vote.

CW: (UI)

FN: This country's so fucked up. I mean that's, that's the candidates right? You know what?  
'Cause anybody in their right mind doesn't wanna fucking vote.

What are those? Eggs (UI) in the back of your refrigerator? You keep bringing them in.

CW: They're in there somewhere.

FN: Alright, well I'll take one. I mean...

CW: Is it there? I mean I'm just bringing what's in there.

FN: You're bringing (UI)?

CW: (UI) about to go down.

FN: You want me to bring your card back?

CW: Yeah, yeah, if you don't mind. Put 'em on the table have them in the refrigerator,  
whatever.

FN: You don't mind I take some?

CW: No. Help yourself. I just... I put em in there and everyone knows now just grab them if  
they're in there, so.

FN: I appreciate it.

CW: Um, put a sticker though with your name on it, but if you're gonna take it home right  
away (UI) whatever.

FN: No, I'm just gonna put them on this refrigerator, so I don't forget. I don't fucking mind,  
(UI) to see Shawn. I talked to Tara, she's okay. I said listen I'd asked Bailey to come get  
you, but he just threw his back out...

CW: Yeah. I don't think it's any more than just normal. I mean, he's done it before.

FN: Right, he's done it before, so. I just wanted to make sure he didn't hurt himself.

CW: Right and no, yeah I mean he looked like he was a lot better.

FN: Yeah, by the time we left. But he throws his back out, you know?

These fucking people. Where are they from?

CW: Trenton, I think?

FN: They're from Trenton.

CW: I think so.

FN: Stay the fuck out of Bordentown. Now they can go home and tell them you can go to Bordentown they'll fuck, I just, you know what, it would have been nice if that fucking dog could have come up. 'Cause they would have stopped, put down.

CW: We didn't know where they were, I mean (UI)

FN: I know, I know.

CW: I mean if they were rolling around in the grass, it'd be different story, but.

FN: That dog, that dog will stop anything right then and there [makes dog noises]. I'm telling you. You'd have seen two fucking niggers stop dead in their tracks. (Laughs) I love that when they do that. I just love that.

CW: I don't know, it's kinda urgent to.

FN: I know. I'm just saying, it would've been nice, it would've been nice. They'd have fucking backed right off.

CW: Yeah, I told you if they were outside rolling in the grass in the water in the pool.

FN: Yeah, I thought they were in the woods. At this point by the pool, by the pool. I don't know if they were in the woods.

CW: Yeah.

FN: (Sigh)

CW: So, I guess.

FN: I told Petro we're not gonna have anybody there tonight 'cause Shawn was there, so the night shift is Jeff and Nagle. That's it.

CW: Yeah.

FN: Kay, they can drive just drive through multiple times.

CW: Okay.

FN: And take a walk through the inside, when we get done with this, 'cause who knows how long this is gonna be, once we take them to jail.

CW: Right. I don't think we (UI). I mean yeah, I think he's over it. I mean he had a scheme, but I think he's over it.

FN: Where the fuck are they at?

CW: I think he's talking to him, you know he's not red. (UI) red in the face.

FN: He got sprayed. He got fucking sprayed.

CW: (UI)

FN: Now, you see what I did to it, that switch, to back to where you are.

CW: (UI)

FN: Whatever days it was you needed for the wedding.

CW: You wanna switch again?

FN: No, no, it's what it was but I have Chris working so he doesn't get stuck with another midnight a full midnight with you, he can back seven hours, eight hours later and start. Cause Sunday you'll be back.

CW: Sunday night.

FN: So he's working part of the Sunday, but he's not gonna come in at seven at night. Instead of seven in the morning he can come in at three.

CW: Okay.

FN: So he can work three to three...

CW: Okay.

FN: Instead of doing the seven to seven.

CW: Okay.

FN: So I give him the eight-hour window, yeah that's what I did.

CW: Okay.

FN: But it's done.

CW: Alright. Yeah I didn't see that part (UI).

FN: Alright.

CW: Thank you.

FN: It's no problem.

CW: (UI) Eric for a day, uh...

FN: (UI) that right there.

CW: That's part of it I guess.

FN: Okay. I'll look at that, I don't...

CW: I think Frank's off. Switched off or something. I guess he switched training or something.

I guess he was on training, but...

FN: Yeah, Frank's off and Eric's off, but I don't know. What's this? What's he want? What's it for?

CW: I don't know.

FN: Alright, then maybe tonight. We'll see. I don't work there tonight, so I'll see what I can do.

CW: (UI)

AN: (UI) you have a walk in at the station to pick up her daughter.

FN: That lady, maybe it's, maybe it's the girl's mama.

CW: Maybe.

FN: So we can show her where the detention center is. So she can get a fucking... Can't stand (UI). None of this has to happen. Just listen. No means no, don't means don't, do what you're told, and if we're wrong you get the rainbow, you get the pot of gold at the end of the rainbow.

CW: I mean we probably didn't even have to go if, if the manager of the establishment said hey you're not a guest here and you gotta leave, and you leave the police don't even have to be called.

FN: And they, they fucking, they stole a room last night.

CW: Yeah.

FN: Fucking idiots. I mean how stupid is stupid.

CW: Oh well.

**END AUDIO**

# Bordentown PD

DATE: DECEMBER 27, 2016

TYPE OF RECORDING: BODY RECORDER

DATE OF RECORDING: SEPTEMBER 1, 2016

SUBJECT(S) OF TAPE: COOPERATING WITNESS (CW)  
CHIEF FRANK NUSSBAUM JR. (FN)

CASE AGENT(S): SA VERNON I. ADDISON (CJRA)  
SA ARTHUR E. DURRANT III (CJRA)

TRANSCRIBED/TYPED BY: SA VERNON I. ADDISON

ABBREVIATIONS: UNINTELLIGIBLE (UI)  
INAUDIBLE (IA)  
PHONETIC (PH)

FN: Uh, they just released Shawn, his back's fucked up, he's got to go to a specialist and uh evidently this guy punched the shit out of his fucking kidneys, kidney, black and blue. It doesn't have any blood in it but punched it pretty fucking good.

CW: UM

FN: Fucking little, fucking nigger. He was built pretty stocky though.

CW: Yes, muscular.

(ROAD NOISE)

FN: (IA)

CW: She was little too.

FN: (IA)

CW: She was little too.

FN: (UI)

CW: She's like 5, 5 nothin.

FN: Yeah but when you when you p ocoa butter on that skin and come out of the pool It's like try g to h ld do n a fucking snake.

CW: I don't k ow about yo but I, I like snakes about as much as you like dogs but I don't try to hold snakes down.

FN: Best place to try to hold onto now...(UI)

# Bordentown PD

DATE: December 13, 2016

TYPE OF RECORDING: AUDIO

SUBJECTS: COOPERATING WITNESS (CW)  
BTPD CHIEF FRANK NUCERA (FN)

ABBREVIATIONS: UNINTELLIGIBLE (UI)

**12/13/16 Audio beginning at 9:45**

FN: Hello.

CW: I was wondering if you ever had a chance to talk to Colleen about what we talked about yesterday. (UI).

FN: She's on vacation. She won't be in until tomorrow.

CW: Oh.

FN: (UI)

CW: I'm fucking freaking out man.

FN: What, why?

CW: I'm just nervous.

FN: Relax.

CW: Only thing I'm worried about is if that aunt or somebody was filming in that hallway. I mean.

FN: If she uh, if she filmed anybody, it's me screaming at her to "get back, get back."

CW: When you went to the doorway, pushed his head into the wall, he's in handcuffs

FN: Mmmhmm.

CW: I mean if...

FN: I didn't see that. I didn't even see that. I don't think she was filming.

CW: If, if she was filming it, ya know, I'm just afraid of like fucking Black Lives Matter gonna be protesting on my front lawn.

FN: I haven't heard anything about it. And usually I find out about lawsuits that come in anyway 'cause she lets me know 'cause I have to send it to the JIF. So I haven't heard

anything. She's been on vacation, so I don't know if she's got something in the mail, a notice of tort or whatever. I don't know.

CW: I can't sleep at night, man.

FN: Relax, relax.

CW: I'm trying, it's easy I, I've never been sued before. I don't know.

FN: (UI)

CW: I really don't know what, you know.

FN: Hey listen. Another thing is you don't know, they, they can, videos show funny things. How do you know he wasn't pulling a gun?

CW: I know, but all, but all the videos that they show, you know, they only show.

FN: They show it to their benefit.

CW: They only show the bad things that the police did, so.

FN: Yeah they only show to their benefit, but what I'm saying is you're taking him out after you were wrestling with him.

CW: If, if they took that video and took a screenshot of your hand on his head up against the wall, I mean, you know that's, that's ugly.

FN: That's, that's, that's based on what they show, but what's the real perception? Again, if you push him against the wall and then stop them from fighting. Look what happened. We had a cop laying on the ground, okay?

CW: Right.

FN: Fucking guys wouldn't give. So you know what? When you push him against the wall you're holding him there (UI).

CW: (Sighs)

FN: Fucking niggers (UI).

Relax, relax.

CW: Oh my God.

FN: Hey remember they're the ones that started the fight and hurt Shawn. Shawn went to the hospital, so. And like I said, they can see you pushing, they can see you push him into the wall. They don't know what's going on the fucking guy's struggling and resisting. You're trying to control him. If that's what you gotta do, that's what you gotta do. He was resisting. Look what it took, how many cops came there? I mean it was Springfield, Bordentown City, us, Mansfield, I mean come on. Because, 'cause of six unruly fucking niggers?

CW: Okay, I just, I couldn't sleep last night thinking about it.

FN: Relax buddy. You need to relax. Listen, it's just the fucking typical shit if they do it. Pieces of shit. I haven't heard anything. You gotta learn to relax. That could go on for two years, pal. They have two years to serve us with a lawsuit.

CW: I don't have to worry about this for two years?

FN: If you worry about it you're crazy, but I'm just telling you they have two years to file a notice of tort. That's the way it works. Two years.

CW: So, two Septembers from now?

FN: I don't know when it was. [Phone ringing]

CW: Ugh, I think it was September or August, something like that.

FN: Yeah, they have two years, so. Relax. If I hear anything, I'll let you know.

CW: Alright.

FN: But, I haven't heard a thing yet, so.

CW: Alright.

FN: I'll let you know.

CW: Thanks Chief.

FN: Alright buddy.

**12/13/16 Audio ending at 13:40**

DRAFT

# U.S. V. FRANK NUCERA, JR.

DATE: Thursday, December 22, 2016

TYPE OF RECORDING: Recorded Interview

SUBJECTS : FBI Special Agent Arthur Durrant (AD)  
FBI Special Agent Vernon Addison (VA)  
Bordentown Twp. Police Chief Frank Nucera, Jr. (FN)

ABBREVIATIONS: INAUDIBLE (IA)

1 VA: Around what time was this incident, do you remember?

2 FN: Oh man, I can't.

3 VA: Was it in the morning?

4 FN: No, it was in the evening, it was afternoon or evening. It wasn't morning. I'd say

5 maybe, and don't, don't hold me to it 'cause (IA).

6 VA: Yeah, yeah.

7 FN: Maybe, four, five o'clock.

8 VA: Okay, so late afternoon.

9 FN: Yeah, yeah.

10 VA: Okay. So you didn't go hands on with the Aunt?

11 FN: No, no. I didn't (IA) hands on with nobody.

12 VA: Okay.

13 FN: Nope. Just, just, just verbal with her. I mean, she was yelling and screaming. I'm,

14 they're over here behind me. And I'm trying to look this way and look. "Yo, yo, yo,

15 that's enough, that's enough, stop it, stop it."

16 VA: Okay.

17 FN: Okay.

18 VA: And you didn't go hands on with the girl?

19 FN: Nobody. No.

20 VA: Okay. And the guy?

21 FN: No.

22 VA: And these, are they younger people? I know the girl was a juvenile.

1 FN: Yeah, I think they were both younger. Yeah, yeah.

2 VA: Okay, alright. But you didn't go hands on with anybody?

3 FN: Nope.

4 VA: You didn't spray, pepper spray anybody?

5 FN: I don't have pepper spray on my civilian attire.

6 VA: (IA)

7 FN: Nope, I didn't go hands on, didn't touch anybody, didn't spray anybody.

8 VA: Okay alright, alright. And you didn't cuff anybody?

9 FN: I didn't touch, I didn't touch any of them.

10 VA: Okay, Alright.

11 FN: I had nothing to do with the physical arrest or anything, no.

12 VA: 'Cause that was pretty much, by the time you got there, either you remember it may have

13 been done already, and all you were concentrating on was the aunt.

14 FN: Yeah, that was it. 'Cause, you know, they were still, there was still stuff going on in the

15 corner. And I don't remember, I think the girl was cuffed and done already. I don't

16 remember if the boy was cuffed and they were, or they were still struggling with him or

17 what, but I concentrated on the aunt.

18 VA: Yeah. There was no need for you to go over there.

19 FN: Nah, there was, there was, there was enough, you know, enough guys there, I mean, you

20 know, you put more guys there it's like monkey fucking a football. I mean how many

21 people do you need and what can you do? I mean you're grabbing each other's hands.

22 VA: Exactly. No. And so, then you just stayed with Lt. Mount until, which EMS comes?

1 FN: Bordentown EMS.

2 VA: Okay so you stayed with Lt. Mount until EMS came.

3 FN: Well they were there, yea. The firefighters come, firefighters get out first, okay. They  
4 do EMS fire. I mean that's the way I guess they justify it, you know. Whatever it is. So  
5 they got there, and then squad of course, won't come in until you call it safe.

6 VA: Yeah

7 FN: So then they came up with the litter and then, and took him down and then we, we sat in  
8 the lobby for a few minutes and took their gear off and then he went to the hospital. And  
9 then I, I don't even remember if I went back to the station right away or not, I mean  
10 eventually I know I went back to the station.

11 VA: Okay.

12 FN: But I don't, you know to me it wasn't, I mean these things happen, it wasn't the type of  
13 situation where I had to run back to the station. I mean I wouldn't have never gone to  
14 the call if the call for help didn't go out.

15 VA: Yeah, I gotcha.

16 FN: So.

17 AD: I have to ask some obvious questions, you know?

18 FN: Go ahead.

19 AD: One, if anyone were to say that you, Chief Nucera, uh, used excessive force on anybody  
20 at the scene that day, would or would not, would that be true?

21 FN: No. I didn't touch anyone.

22 AD: I just have to ask.

1 FN: Yeah, no.

2 AD: If, as Chief Nucera would you, if one of your officers at the scene used what you  
3 considered to be excessive force, what would you have done about that?

4 FN: What we're all trained to do, step in and stop it.

5 AD: Okay, and would you have done that?

6 FN: Correct.

# U.S. V. FRANK NUCERA, JR.

DATE: Thursday, December 22, 2016

TYPE OF RECORDING: Recorded Interview

SUBJECTS : FBI Special Agent Arthur Durrant (AD)  
FBI Special Agent Vernon Addison (VA)  
Bordentown Twp. Police Chief Frank Nucera, Jr. (FN)

ABBREVIATIONS: INAUDIBLE (IA)

1 AD: But the male or female being arrested, um, I don't know how much of them you saw or  
2 how long you were with them. Did you see any physical injuries to them? Bleeding,  
3 swelling?

4 FN: I didn't see anything that was obvious, but on the flip side of the coin, I didn't even, I  
5 didn't look that close either.

6 AD: You didn't see one limping away, or no observations is what you're saying?

7 FN: I didn't, I didn't, I didn't, I didn't, to me there was no indication that anybody was  
8 injured other than the normal amount of force to put somebody in custody. You know,  
9 it's like Timoney said, "How do you arrest somebody nicely that doesn't want to be  
10 arrested?"

11 VA: Um, hmm.

12 FN: So, other than that, but I didn't see anything, I mean, there was no overt that I could see  
13 of any blood or, or anything of that nature but...

14 VA: But you didn't have any contact with them?

15 FN: Nah, I didn't touch, I didn't touch them, I didn't touch them, didn't talk to them, and I  
16 didn't see any of the processing at the station.

17 VA: And at the station, you don't, nobody talked to you about what went on?

18 FN: There was nothing talked to me, that day or even to this day, about anything that was out  
19 of the norm for that type of call.

20 VA: Yeah, okay.

UNITED STATES DISTRICT COURT  
for the  
District of New Jersey

SUBPOENA TO TESTIFY BEFORE A GRAND JURY

To: Nathan Andrew Roohr

SUBPOENA FOR:

☐ PERSON ☒ DOCUMENT(S) OR OBJECT(S)

**YOU ARE COMMANDED** to appear in this United States district court at the time, date, and place shown below to testify before the court's grand jury. This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

Place: Clarkson S. Fisher Federal Building & Courthouse  
402 East State Street  
Trenton, New Jersey 08608

Date and Time: January 19, 2017 at 10:00 a.m.  
[REDACTED]

You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

Please provide the following:

1. All audio and/or video recordings in your possession capturing audio or video inside the Bordentown Township Police Department headquarters;
2. All audio and/or video recordings in your possession in which Bordentown Township Police Department personnel have been recorded, whether recorded inside the Bordentown Township Police Department headquarters or elsewhere.

Direct all questions and forward requested documentation to: Special Agent Vernon Addison,  
Federal Bureau of Investigation, [REDACTED]  
[REDACTED] prior to the above return date.



Date: 01/11/2017

*William T. Walsh*  
William T. Walsh, Clerk of Court

The name, address, e-mail, and telephone number of the United States attorney, or assistant United States attorney, who requests this subpoena, are:

This subpoena is issued on application  
of the United States of America

PAUL J. FISHMAN  
United States Attorney

MOLLY S. LORBER, AUSA *ML*  
402 East State Street, Room 430  
Trenton, New Jersey 08608  
(609) 989-2190

MLFN006

**PROOF OF SERVICE**

This subpoena for (name of individual or organization) NATHAN ROOK, BOWDITCHMAN P.D.  
 was received by me on (date) 1/11/17.

☒ I served the subpoena by delivering a copy to the named person as follows: NATHAN ROOK,  
BOWDITCHMAN P.D.  
 on (date) 1/11/17; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

I declare under penalty of perjury that this information is true.

Date: 1/11/17

[Signature]  
 Server's signature

VICTOR J. ADDESONI  
 Printed name and title

200 AMERICAN METRO Bldg Hartford, CT  
 Server's address

Additional information regarding attempted service, etc:

**CERTIFICATE OF SERVICE**

I, Molly S. Lorber, an Assistant U.S. Attorney, hereby certify that:

On October 1, 2018, I caused a copy of the Government's Opposition to Defendant Frank Nucera, Jr.'s Omnibus Pretrial Motion to be filed via the Court's CM/ECF electronic filing system, and thereby served upon:

ROCCO C. CIPPARONE, JR., ESQ.  
LAW OFFICES OF ROCCO C. CIPPARONE, JR.  
203-205 BLACK HORSE PIKE  
HADDON HEIGHTS, NJ 08035  
Attorney for Defendant Frank Nucera, Jr.

I certify that the foregoing statement made by me is true. I understand that if the foregoing statement made by me is willfully false, that I am subject to punishment.

Respectfully submitted,

CRAIG CARPENITO  
United States Attorney

A handwritten signature in black ink, appearing to read 'Molly S. Lorber', is written over a horizontal line.

By: MOLLY S. LORBER  
Assistant U.S. Attorney

DATED: October 1, 2018